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The Solicitors' Journal

VOL. LXXVIII. **Saturday, February 3, 1934.** No. 5

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Current Topics.

The New Lord Warden.

THE appointment of the MARQUESS OF READING as Lord Warden of the Cinque Ports, is of interest generally, but especially so to members of the legal profession who can recall his amazingly brilliant career at the Bar. As a junior he early displayed his capacity for mastering the cases entrusted to him, while as a silk he came nearer than anyone to the commanding force of Sir CHARLES RUSSELL, whom in time he was to succeed as Lord Chief Justice of England. His labours in the various offices to which he was called outside the law—Ambassador Extraordinary to the United States, and finally, Viceroy of India—are fresh in the public mind. His new post, that of Lord Warden, will not, it is true, involve arduous duties; the post is now little more than a pleasant sinecure with, however, no salary attached to it, the only reward being a delightful residence at Walmer Castle, with its host of great traditions and memories of those who in the past have occupied its rooms, notably the great Duke of Wellington, who was Lord Warden from 1829 to 1852. The office goes back a very long way, and is intimately connected with the early days of the English navy. In return for a number of privileges, the Cinque Ports—originally as the name implies five in number, but later including seven ports—on the Kent and Sussex coast, had to provide the King with a certain quota of ships to repel invaders, and effectively as a rule did they carry out their obligations in this respect. Not only did the ports enjoy immunities from taxation, they enjoyed likewise certain exemptions from the jurisdiction of the King's courts, seeing that they constituted a territorial division analogous to that of the counties palatine; they had their own courts presided over by judges appointed by the Lord Warden. There is still in existence, although it rarely sits, the Admiralty Court of the Cinque Ports, of which for many years the late Mr. ARTHUR COHEN was the judge and to him succeeded Sir FREDERICK POLLOCK, who still holds the office. Part IX of the Merchant Shipping Act, 1894, which is concerned with wreck and salvage, contains the following provision in s. 571: "Nothing in this Part of this Act shall prejudice or affect any jurisdiction or powers of the Lord Warden or any officers of the Cinque Ports, or of any court having concurrent jurisdiction within the boundaries of these ports, and disputes as to salvage arising within those boundaries shall be determined in the manner in which they have been hitherto determined." This may be said to be the last vestige, or one of the last, of actual jurisdiction within the ancient territory.

Precedent in English and Continental Law.

To the new number of the *Law Quarterly Review*, Professor GOODHART, the learned editor, contributes an elaborate and extremely interesting article on the place which precedent holds in English law as compared with its influence in European states. Frequently it has been made a reproach to our law that it is hidebound by decisions delivered centuries ago when social habits were very different from what they are to-day. This attitude was crystallised in the striking saying of Mr. Justice HOLMES that "it is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past." It is sometimes claimed for English law that it is more flexible than that of the Continental countries, but according to the learned writer this alleged flexibility is, under most circumstances, nothing more than a recognition that on many questions there is no existing precedent, and that, therefore, when a novel problem does arise the judges are free to lay down whatever principle they consider desirable. Indeed, as is said, the doctrine of the binding precedent is only workable because there are so many problems which fall outside its purview, and the limited rules which it creates are surrounded by blank spaces. Continental lawyers have a freer hand, and they are spared the enormous labour of consulting the myriad cases decided by past judges. A comparison of a French text-book with its limited number of references and these all modern with an English one over-burdened with footnotes where discordant decisions are disposed of by the insertion between their names of the words "but see," is ample demonstration that our method, with all its merits, can scarcely be justified on grounds of convenience. In the recent case of *Bottomley* v. *Bannister* [1932] 1 K.B. 458, it is pointed out that precedents decided in 1409 and 1425 were cited to assist the judge in determining who was liable for the leakage of a gas burner installed in 1929. This seems to carry the value of precedents a long way back. Over against its disadvantages has to be set the certainty of the English system, and that means much in comparing our law with that of Continental nations, and it is not very likely that we shall change the methods in which we have grown up and which, despite occasional failures to meet adequately individual cases, has on the whole worked smoothly, although, as has been said, at the expense of a good deal of research on the part of the practitioner.

The Programme of the Church Assembly

THE legislative programme to be submitted to the Church Assembly at its spring session, which opens on 5th February, is of an unusually interesting—not to say extensive—character. The first item is to be the proposal for reconstruction of Queen Anne's Bounty and the Ecclesiastical Commission—a proposal which has long been advocated. Other measures to be debated include one for the amendment of the Clerical Disabilities Act, 1870 ("report" stage), the

Ecclesiastical Courts (Regulation of Reports) Measure and the Cathedrals (Amendment) Measure—both new Bills. These are all of national and not merely ecclesiastical importance. Of more domestic concern to the Church are the Clergy Pensions (Widows and Dependents) Measure, which comes up for final approval; a report of the committee of inquiry into the position of training colleges; another report of a committee appointed to review the Union of Benefices Measure with a view to its amendment; and motions relating to mixed marriages, church music and the City of London churches. How all this amount of business is to be got through in a session normally limited to four-and-a-half days, it is not easy to see; but whatever views may be taken of the merits or demerits of the legislation which emanates from the Church Assembly we do not hesitate to confirm an opinion we have previously expressed, that the Imperial Parliament might do worse than take example from the procedure of the Church Assembly in its method of organising legislative work.

Returns of Friendly Societies.

In a considered judgment on a test case stated to be the first of its kind, the magistrate at Bow Street Police Court on 5th January dismissed a summons against the Secretary of the Liverpool Victoria Friendly Society, Southampton Row, W.C., charging him under s. 84 (*c*) of the Friendly Societies Act, 1896, with having made a return to the Chief Registrar of Friendly Societies which was insufficient, in that it did not "show separately the expenditure in respect of the several objects of the society" as required by s. 27 of the Friendly Societies Act, 1896. It appeared that sums had been shown in the return as having been received from the Liverpool Victoria Approved Society, but no expenditure was shown as having been made for the objects of the approved society. The learned magistrate said that the crucial question which he had to decide was whether the administration of an approved society as a separate section of a friendly society is or is not one of the objects which a friendly society may by law have. The objects for which friendly societies might be registered were set out in s. 8 of the Act of 1896, which included societies "for the purpose of providing by voluntary subscription of the members thereof with or without donations for certain specified purposes, of which the administration of an approved society was not—and at that time could not be—one. Section 29 of the National Health Insurance Act, 1924 (replacing the repealed s. 23 of the National Health Insurance Act, 1924) did not, in the learned magistrate's opinion, add to the possible objects of a friendly society the administration of national health insurance benefits for compulsory contributors, as under s. 29 of the National Health Insurance Act, 1924, an approved society must be in absolute control of its own affairs. The sums disclosed as having been received from the approved society were received in payment of sums expended by the parent society on behalf of the approved society and were not a record having any relation whatever to expenditure upon a separate object of the parent society, and the return was therefore not insufficient within the meaning of s. 84 (*c*) of the Friendly Societies Act, 1896.

Workmen's Compensation Reform.

The General Federation of Trade Unions, in a deputation to the Home Secretary on 25th January, urged the necessity of enacting certain amendments to the Workmen's Compensation Acts. The first suggested amendment, that there should be a scheme of compulsory insurance by employers against risks of injuries to their workmen, will find few critics, the principle of protecting injured workmen against the possibility of their employers' insolvency, have been already adopted in s. 7 of the Workmen's Compensation Act, 1925. As most employers insure against such risks in practice, such a provision would not involve very considerable hardship. The second proposal demands that the present limitation under which a workman can recover compensation for a scheduled disease only if it is due to the nature of some employment in which he has been employed during the twelve months previous to his disablement or suspension, should be abolished. The limitation, possibly, causes isolated cases of hardship, but the whole question needs to be investigated from the medical standpoint before such a proposal is adopted, and there arises, in addition, the difficult practical problem as to whether the causes of a disease can be justly attributed to work under a particular employer before the period of twelve months previous to the disablement or suspension. The remaining two proposals seem to be based on the principle, if one may distort the proverb, that by asking for an ell one may obtain an inch. It is suggested that the determination for the purposes of compensation of average weekly earnings should be based, not on actual average earnings, but on the nominal wages for a full working week. The carrying into practice of such a scheme might easily put a premium on malingering, and the suggestion is moreover based on very doubtful economics. The last amendment proposed by the Federation is that provision should be made for payment of damages for loss of limb or disfigurement or other similar injury, in addition to any compensation payable for loss of earning capacity. There seems to be no logical reason why responsibility for injuries to workmen should be placed on a different legal basis from that for injuries to other persons. Workmen have neither more nor less rights than the general public to bring actions for damages due to negligence whenever it occurs, and to give them a general right to damages for injuries occurring during work, irrespective of negligence, would seem to make them a privileged class. As we pointed out in a previous "Current Topic" (78 Sol. J. 54), few will be found nowadays to grudge the charge of workmen's compensation on industry, heavy though it be, but any proposal involving an increase of that charge should not be adopted without the most serious previous consideration.

Passing-Off, Use of Own Name.

Many cases have arisen, and probably will arise, upon the interpretation of s. 44 of the Trade Marks Act, 1905, which protects "the *bonâ fide* use by a person of his own name or place of business——." For years the tendency of judicial opinion has been towards a strict construction of the words "*bonâ fide* use"—indeed many successful actions for passing-off have been brought where the defendant has used his own name. The court in *Teofani & Co.* v. *Teofani* [1913] 2 Ch. 545; 47 Sol. J. 686, refused to remove the name "Teofani" from the register, and at the same time granted an injunction against Athanasius Teofani restraining him from making cigarettes bearing the name "Teofani." The recent case of *C. & T. Harris (Calne) Ltd.* v. *Harris*, 50 T.L.R. 123; 78 Sol. J. 48, is of great value, for it shows that a "*bonâ fide* use" of one's own name can still exist, and that the force of s. 44 has not been completely whittled away by the decisions of the past two decades. The plaintiffs, the well-known Wiltshire bacon company, brought an action for passing-off against the defendant on the ground that he was selling Danish bacon marked with the word "Harris," their registered trade mark. Farwell, J., held that this was a *bonâ fide* use within the meaning of the section, the defendant having traded under his own name for a number of years. The decision is the more important because his lordship rested his judgment entirely upon the section, for he rejected the defendant's claim that English and Danish bacon are totally different articles, and that, therefore, as the plaintiffs dealt solely in the former, the case came within the rule in *Edwards* v. *Dennis*, 30 Ch.D. 454. This important and interesting decision must not be regarded as necessarily in conflict with the earlier ones, which may all be distinguished from it on the ground that in every one of them there was the suspicion of fraud. This case then serves to underline the words "*bonâ fide*" in the section and to make once more clear that in them lies the real test.

Some New Suggestions for the Business of the Courts Committee.

[Contributed.]

The recommendations contained in the Second Interim Report of the Business of the Courts Committee have already provided material for widespread discussion in legal circles, and there is every prospect of some of the more important of the recommendations being carried into effect at an early date. But what strikes the present writer more forcibly than anything else upon studying the Report is the almost complete absence of anything novel or suggestive of such drastic reform as will encourage the public to come to the Courts of Justice to settle their differences instead of fighting shy of them as places to be avoided even by those armed with a just quarrel. The constitutionalists and the politicians may go on debating the question of the judges' salaries *ad infinitum ;* and the Bar may exercise all its argumentative powers upon the subject of reviving the old practice of having judges of first instance as Judges of Appeal. These and similar matters are chiefly of interest to Bench and Bar, though naturally they have a very important bearing upon the whole fabric of legal procedure. But there are matters not even referred to—some of them probably not even thought about—by this Committee which are of everyday moment to the public and to the solicitors' branch of the profession which is most closely in touch with the public and through which of course the bulk of the work available for the Bar has to come. One or two of these will form the subject-matter of this essay.

The first relates to the work of the county courts, and particularly to appeals from those courts. The idea in the Report just published is to abolish the Divisional Court and let appeal lie direct to the Court of Appeal. Quite a good idea ! But that will leave untouched the long-standing and very real grievances by the county court litigant (*a*) that there is no appeal from the decision of a county court judge *upon any question of fact ;* and (*b*) that the expense of an appeal heard in London is often absolutely prohibitive, since it is not to be measured merely by the standard of court fees, but has to include the cost of journeyings to, and often hotel expenses in, London for litigant, solicitor and counsel attached to the local Bar (whose employment is generally most essential) and other costs not involved where the appellant and respondent and their legal advisers live in or near London.

Now as to questions of fact. The average county court judge, despite his anxiety to do justice, is after all only human, and is prone (as indeed are some judges of the High Court) to adopt erroneous views on matters of fact—to say nothing of the unfortunate habit some county court judges have of taking determined views upon a case from start to finish, and of finding the facts to fit the judgments they are intent upon delivering. Let it be said quite plainly that these errors of judgment are by no means unknown among county court judges ; and there is no practitioner of any standing—be he counsel or solicitor—who has not from time to time known decisions involving real injustice from which there could be no successful appeal. The present writer can recall numerous instances in which litigant and legal adviser have come away with sore feelings at losing a case which they did not deserve to lose because of judicial idiosyncrasies. All this may very well be said without in any way reflecting upon the high character and capacity of county court judges as a whole ; it is enough that one man sitting alone and hearing the conflicting statements of witnesses may, with the best intention in the world, find the facts wrongly. If he does go wrong, there is no remedy ; for the judges of the Divisional Court (and their example will be followed by the Appeal Judges of any other court) will simply turn down any appeal which rests upon erroneous findings of fact and send the unhappy appellant away with a new and expensive grievance added to his existing burden.

There is just as much to be said for giving a county court litigant the right to have his case fully reviewed, both as to law and fact as there is to give him that right of complete review when his case is heard by a stipendiary magistrate, and he chooses to take it for review to quarter sessions. County court judges and stipendiary magistrates are chosen from the same rank of counsel and are equally competent to form conclusions upon questions of fact. Why the one should be regarded as incapable of ever taking a wrong view of facts, whilst the other's view of facts is always liable to be disturbed is one of those eccentricities of our legal system that nobody has ever been able to reconcile with common-sense. Certain it is that the refusal to allow any review of the facts of a county court action—especially when there has been no jury to find them—is a source of much public discontent.

But objection will at once be taken that if such a thing were allowed as an appeal on facts as well as on law every litigant who loses his case would want to appeal and the work involved would be endless. This is surely an unjustifiable presumption. If the fear of costly consequences of appealing did not operate as regards county court litigants just as it operates to prevent ill-starred appeals to quarter sessions—why then it would not be difficult to place restrictions upon the right of appeal. The obtaining of leave—as in the case of the Court of Criminal Appeal perhaps—or something on similar lines could quite easily be devised.

Then another objection will be taken. It will be said that no appeal in the nature of a re-hearing before the Court of Appeal would be practicable. How could you drag all the witnesses up to London—and so on ? Agreed ! But why not allow an appeal to the judge of assize on circuit ? Many of the petty cases which judges of assize now are called upon to try on circuit are not nearly so important as are cases which county court judges are often called upon to try. Or why not—and this is a new suggestion which so far does not appear to have been put forward—why not constitute divisional courts in the provinces consisting of three county court judges on the same model as the Divisional Court or proposed newly organised Court of Appeal in London composed of judges of first instance ? That would surely provide an alternative to the foreshadowed scheme of direct appeal from the county court to the Court of Appeal ; and if, as is generally admitted, the average county court judge is as competent a lawyer as the average High Court judge, then let appeal from the Divisional Court of county court judges (which might be called the County Divisional Court) lie either direct to the House of Lords or to the Court of Appeal as final.

Again objection will be raised. It will be urged that county court judges are already overworked and that if they are to be called upon to sit from time to time as judges of the " County Divisional Court " more of them will have to be appointed. Now, as to this there is a good deal to be said by way of reply. The work in a certain number of county courts is undoubtedly congested ; but in a very large number the judges are by no means overworked, as is shown by the fact that many of them are now lending their services as chairmen of quarter sessions. Moreover, whatever congestion does exist in county courts is nearly always due to the shocking waste of time over judgment summonses. The complaints of waste of time and " remanets " as a result of this blockading of the courts chiefly by hire-purchase and money-lending firms who use the county courts as a debt-collecting agency have been going on for years, and it is high time that the scandal was ended. The registrars are quite competent to deal with judgment summonses. The worst effect of it is that so many cases are constantly having to be adjourned for want of time—and the costs are piled up in consequence whilst the judge is ploughing his way through these interminable judgment summonses.

But out of this arises another new scheme which does not appear to have suggested itself to the Business of the Courts Committee. There are about 120 recorders holding their quarter sessions all over the country, dealing with criminals and hearing appeals. These recorders are all of the same standing at the Bar as that from which county court judges are chosen. The appeals they adjudicate upon are mostly of an important and responsible character relating to rating, motoring, the liquor laws, etc., and there is not the slightest reason for suggesting any difference in legal capacity between the average recorder and the average county court judge. Both are or have been experienced practitioners in common law and both are equally competent to try civil causes. Why not effect some amalgamation between the two? It not infrequently happens that a recorder and a county court judge are both holding courts in the same town on the same day—not infrequently in the same building. The work of recorders has notoriously fallen off very much of late years owing to the wider powers of justices in petty sessions; and a glance through the cause lists of quarter sessions will show that often a recorder will travel down from London to do half a day's work in a place where the county court judge is adjourning cases for want of time.

Here seems to be an opening for some amalgamation of duties which might not only relieve the work of county courts but also give an opening for relieving the assize judges. It is notorious that a large number of criminal cases are sent to assizes which are only fit for quarter sessions, and the time of assize judges is wasted accordingly. Recent legislation which was aimed at the expeditious trial of criminal cases provided for transfer of prisoners to other convenient courts to be held at earlier dates than those to which they would normally be committed; but it made no provision for distributing the dates for holding quarter sessions on a wider range.

So with underworked recorders having no cases to try and overworked county court judges taking holiday as chairmen of quarter sessions, and High Court judges at assizes trying the smaller type of criminal cases triable at quarter sessions because none are being held at the time, it would seem that there is very serious wastage of legal talent and time, to say nothing of the public expense involved.

An Income Tax Point.

An income tax point of interest to solicitors came before the Court of Appeal recently (1st December) in a case on appeal from a decision of Mr. Justice Finlay (*Watson & Everitt* v. *Blunden* (*Inspector of Taxes*), fully reported in *Rating and Income Tax*, 30th December, 1933). The amount in dispute was comparatively trifling, but the case raised a point of principle which at first sight might appear to be of some substance. Without going into detailed figures and facts, it suffices to say that the appellant, who was a solicitor, and another man, some years ago purchased certain land with a view to operating a brickyard on it, and subsequently developing the property as a building estate. A third partner was also taken into partnership in the adventure. When later the other two partners had died the appellant as trustee, together with another trustee, administered the property. In addition to being a trustee he was, of course, a beneficiary to the extent of his share in the partnership. He had also acted as solicitor in all matters connected with the property, and bills of costs in respect of those transactions were debited in his books in an account entitled "Dell Farm Estate" which was really the account of the appellant and his co-trustee. He claimed that in computing his professional earnings for the purpose of assessment to income tax he was entitled to deduct from "costs received" in respect of work done by him for the trust the proportion of those costs which had really been paid by him to himself for work done in connection with his proportion of the partnership property. Mr. Justice Finlay said that it was enough to say that a man had in fact received a sum for professional services, and it was not necessary to enquire from whom he received it (in this case from himself) or whether there would be any and what difficulties in recovering the sum if it were not paid. The appellant, he said, had received the money by way of professional remuneration, and he (his lordship) thought that it was properly brought in as part of his professional earnings. In the Court of Appeal an emphatic view was taken, the Master of the Rolls saying that there was really no ground whatever for the appeal which, he added, was based entirely on a confusion of thought. "I really doubt," concluded Lord Hanworth, "whether this case is submitted on behalf of the great profession of solicitors who want to have this point ascertained, because I cannot but believe that most of them are familiar with the system under which the computation of income tax is made, and they do not need a decision of this case in order to put themselves right upon it." Lord Justice Romer, agreeing, put the matter concisely and clearly in illustrative form. "You have, for instance," said his lordship, "a firm of solicitors carrying on an ordinary business. There is also a partnership carrying on another business of which one member of the firm of solicitors is a partner. The firm of solicitors acts for the other firm as solicitors. The appellant suggests that, for the purpose of ascertaining the profits of the firm of solicitors, you must not treat as a receipt by that firm the whole of the bill of costs paid by the other partnership, of which the one solicitor is a member, but only so much of those costs as, on taking the partnership account, among the solicitors will appear to belong to the solicitor's partner." It really was untenable added Lord Justice Romer, to suggest that, for the purposes of assessing the profits of those two firms under Schedule D, one was going to be troubled with the partnership accounts and the rights as between the partners.

Right of Appeal in Bastardy.

There can be few more unsatisfactory branches of the English law than that which deals with bastardy. Nearly every application for an affiliation order presents considerable difficulty to the bench before whom it is made, while every contested case is usually oath for oath, any large measure of corroboration being by the very nature of the matter very difficult to obtain. These, being natural difficulties, cannot be avoided, but it is unfortunate that the law itself should add further artificial difficulties, a striking example of which has recently occurred.

When once an affiliation order had been made the possible difficulties become numerous. Firstly, from the point of view of the successful complainant; if she is fortunate the putative father makes his payment with regularity; if, on the other hand, she is unfortunate, she has to make a further application to the magistrates. In the event of the defendant being contumacious it is very difficult to see what benefit she obtains from the order. It is true that the magistrates may, under the Bastardy Act, 1845, s. 8, make a distress order against him, but it must not be overlooked that in the great majority of cases the defendant is a poor man, probably not a householder, and the distress is useless. In that event he may be committed to prison and the arrears of payment to that date are automatically wiped off, an exceedingly unsatisfactory position for the complainant. How to devise a remedy for this is a problem which appears to be almost beyond solution.

It is a very different matter however when possible injustices to the putative father are the subject of consideration. Here several important defects which are by no means irremediable are disclosed by a careful examination of the Criminal Justice Administration Act, 1914, and the cases which have been decided thereon. That these defects are of more than merely

academic interest is shown by a case very shortly reported in the daily papers a few days ago, in which the Chatham magistrates committed a woman for perjury, alleged to have been committed during the hearing of affiliation proceedings which had been brought by her. The putative father had been imprisoned no less than nineteen times in the course of two years for non-payment under the affiliation order in question. He had at all times denied paternity of the infant, and had apparently never made a single payment under the order.

Comment upon the above case would be highly improper as it is *sub judice*, but there is room for considerable comment upon the existing procedure which makes such cases possible. The only existing machinery for the revision of an order made in bastardy proceedings is contained in s. 30 (3) of the Criminal Justice Administration Act, 1914, which says: "Any order made either before or after the commencement of this Act by a court of summary jurisdiction for the periodical payment of money, may, upon cause being shown upon fresh evidence to the satisfaction of the court, be revoked, revived or varied by a subsequent order." It was held in *Rex* v. *Copestake* [1927] 1 K.B. 468, that such fresh evidence must be of such a character that it is not merely relevant but would have affected the judgment of anyone if they had had the opportunity of hearing it at the original hearing of the case.

This definition of "fresh evidence" is one which cannot but prove difficult in application, but supposing even that the evidence it held to be of the required degree of cogency the position of the putative father is little better. The point has twice been raised that under s. 30 (3) the justices have power to revoke the order so far as it contained an adjudication of paternity. The Divisional Court, however, in *Colchester* v. *Peck* [1926] 2 K.B. 366, held to a literal interpretation of the words of the section. Only the "order for the periodical payment of money" may be reconsidered, the adjudication of paternity cannot be disturbed. This decision was approved by the Court of Appeal in *Rex* v. *Copestake*, *supra*, and has not since been questioned. The position is extremely unsatisfactory to the putative father, for if the evidence is of such a nature that the order for payment would be revoked, it is more than probable that the decision as to paternity would have been reversed as well.

There is always the possibility that the mother of the bastard child may be prosecuted to conviction for perjury on account of her evidence given in support of her application for the affiliation order. Even in this case the adjudication of paternity still stands, though the conviction is in nearly every case a clear indication that the Assize jury does not believe that the putative father is in fact the father. The only benefit that he derives from the conviction of the mother is that such conviction would be overwhelmingly "fresh evidence" to bring before the magistrates on an application for the revocation of the order for payment.

Scrutton, L.J., in *Rex* v. *Copestake*, *supra*, said that the lack in the Criminal Justice Administration Act, 1914, of any power to the magistrates to revise an adjudication of paternity "may be a *casus omissus*." With the greatest respect to the learned lord justice, it is submitted that he did not go far enough. This is undoubtedly a serious lacuna in the series of Acts governing bastardy and affiliation. It is possible that the Legislature intentionally withheld power from the magistrates so as to produce finality, though this can hardly be regarded as a sufficient reason.

Remedies, however necessary, are often difficult to effect, but in this case the remedy would seem to be a simple matter. Surely all that is required is the removal by an Amendment Act from s. 30 (3) of the Criminal Justice Administration Act, 1914, of the words "for the periodical payment of money." The objection to this, that finality would thus be forfeited, finds its answer in the present state of the law, which produces finality at the cost of possible grave injustice.

Company Law and Practice.

Rectification of the Register of Charges.

From the point of view of the company lawyer, one of the most important of those sections which together form Pt. III of the Act, and deal with the registration of charges, is s. 85. It is some little time since I have dealt with that particular section in this column, and I propose this week to consider it in some detail.

Approaching the subject-matter of the section from its logical standpoint we must first of all bear in mind the provisions of s. 79. For the benefit of those of us who are too lazy to remember the provisions of that section, s. 79, in short effect, provides that certain specified charges, so far as any security upon the company's property or undertaking is conferred thereby, shall be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge, together with the instrument that creates it or evidences it, are filed with the registrar of companies within twenty-one days of its creation. Section 79, quite obviously, is a very vital and important section, and its provisions should never in any circumstances be forgotten. But the Act is curiously human in this particular respect, because, by s. 85, it expressly provides for a failure to comply with the provisions of s. 79. Let us now see what s. 85 says: "The court on being satisfied that the omission to register a charge within the time required by this Act (i.e., s. 79) or that the omission or misstatement of any particular with respect to any such charge, or in a memorandum of satisfaction, was accidental, or due to inadvertence, or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or of any person interested, and on such terms and conditions as seem to the court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified." That is the whole section, and I have thought it advisable to have it before us *in toto*, because it will be seen that it confers a jurisdiction upon the court in the widest possible terms.

The section is, of course, not new—it replaces in fact the almost identical words of s. 96 of the Act of 1908. Under that section numerous orders were made, and a more or less settled practice has grown up in connection with applications for extending the time for registration. Before we consider what circumstances are sufficient to give the applicant a reasonable chance of success under the section, I want to say a few words about the practice to be followed.

The application under s. 85 is made by summons or by motion *ex parte* in the Chancery Division. It is usually made by motion, though it has been suggested of late that the more convenient method is by summons in chambers. The affidavit in support should set forth clearly the reasons for the omission to register. It is the practice to state in the affidavit that no execution has been levied against the company, and that no winding up is pending, see the two cases of *Bootle Cold Storage Co.* [1901] W.N. 54, and *Re Tingis Tea Co.* [1901] W.N. 165. An order may be made if these statements are not in evidence, but it is usual to include them.

It is furthermore a rule of practice that an order made extending the time for registration under s. 85, should contain the words: "The order to be without prejudice to the rights of parties acquired prior to the time when such debentures shall be actually registered." This rule was laid down by Buckley, J., in *Re Joplin Brewery Co. Ltd.* [1902] 1 Ch. 79, where an application was made, under s. 15 of the Act of 1900, to extend the time for registration of some debentures which had been issued. Section 15 of that Act was in *pari materia* with s. 14 of the Bills of Sale Act, 1878, under which orders were invariably made containing the words of that proviso. The reason was, that by the insertion of those words the rights of absent parties were not affected. Buckley, J., added that,

in his view, the words ought to be added in every case, unless the order could not prejudice the rights of creditors. There was some doubt as to the meaning to be attributed to the words "rights of parties acquired," unless it could mean titles actually vested, which was the meaning that had been given to the words in an order made under the Bills of Sale Act. The proviso drafted by Buckley, J., came before the Court of Appeal in *I. C. Johnson & Co.* [1902] 2 Ch. 101, a curious case on rather exceptional facts. The question as to what classes of creditors the words of the proviso would have the effect of protecting came before the court and was discussed, but not decided. Cozens-Hardy, L.J., however, stated that he doubted whether the proviso "would have any effect in protecting creditors who had not taken some proceedings to get a charge or security upon the goods."

The question as to the extent of the protection afforded by the proviso was eventually decided by the Court of Appeal in *Ehrmann Bros.* [1906] 2 Ch. 697. It was there decided that where an order is made extending the time for registration and containing the words of the proviso in *Re Joplin Brewery Co., supra*, an ordinary unsecured creditor of the company at the date when the debentures are registered is not entitled to rank *pari passu* with such debenture-holders unless he has taken steps to enforce his debt, or unless a winding up has intervened. In the words of Cozens-Hardy, L.J.: "There must be some intervening definite act, either by the individual creditor or by some proceedings taken on behalf of the creditors as a body, in order to justify those words 'rights acquired.'"

In the recent case of the *M.I.G. Trust Ltd.* [1933] 1 Ch. 542, the mortgagee company had by inadvertence omitted to register a charge given by a mortgagor company. When the mortgagee company some ten months later applied to the court to extend the time for registration the mortgagor company was then hopelessly insolvent. The motion to extend was first of all opposed by the mortgagor company, but the opposition was subsequently withdrawn without any of the relevant facts having been brought before the court. The order extending the time was made, and shortly afterwards the mortgagor company was wound up compulsorily on its own petition. Eve, J., held that the withdrawal of the opposition to the motion involved the suffering of a judicial proceeding within s. 44 of the Bankruptcy Act, and that this act amounted to a fraudulent preference of the mortgagee company within the meaning of s. 265 of the Companies Act; he held that the registration of the charge ought to be declared void. The Court of Appeal held, however, that there was not sufficient evidence to show that the dominant motive of the mortgagor company was to prefer the mortgagee company. It was affirmed that the usual proviso to an order under s. 85 only protects creditors who have acquired a security on the property, the subject-matter of the charge. The court will not insert in the order any terms for the protection of unsecured creditors of the company, and giving expression to this view, Romer, L.J., expressly dissented from the view taken by Buckley, J., in an earlier case as to the advisability, in certain cases, of protecting the unsecured creditors.

With regard now to the chances of a successful application under the section, we have already noticed that the jurisdiction conferred upon the court is wide. Applications are usually made on the footing that the omission to register the charge was due to inadvertence or accident. It is suggested that the word "inadvertence" has a wider meaning than "accident," and the former should be employed as being a more comprehensive term. "Inadvertence" has been variously defined by Huddleston, B., as meaning negligence, or careless where the circumstances show an absence of bad faith, and by Kekewich, J., as describing a case where the omission to register was due to ignorance of the law on the part of the persons concerned. Broadly speaking, the court will entertain an application under s. 85 so long as there is evidence that omission to register was not due to *mala fides*.

A discussion on the subject would not be complete without reference to the simple alternative method of getting out of the difficulty of having failed to comply with the provisions of s. 79. This can be done by cancelling the issued debentures which have not been registered and issuing new ones in their place, which can be registered within twenty-one days of their issue. In simple cases this expedient is frequently resorted to.

A Conveyancer's Diary.

The Vendor's Right to Bid.

THE recent case of *Hills and Grant Ltd.* v. *Hodson* [1934] 1 Ch. 53, calls attention to the subject of the right of an owner of land to bid himself or by an agent at a sale of the land by auction. At common law a vendor was not entitled to bid or to employ an agent (a "puffer") to do so, unless the right was expressly reserved (see *Thornett* v. *Haines* (1846), 15 M. & W. 367; *Green* v. *Baverstock* (1863), 14 C.B. (N.S.) 204). In equity, however, that rule seems to have been relaxed to the extent of allowing the vendor to employ one person to bid on his behalf (at any rate up to a fixed price) on the ground that otherwise the property might be knocked down by the auctioneer at a gross under-value. (As to this see *Mortimer* v. *Bell* (1865), 1 Ch. App. 10, and the authorities there referred to.)

The reader need not, however, be concerned with the old rules, because the rights of the vendor in this respect were defined in the Sale of Land by Auction Act, 1867.

By s. 4 of that Act it is enacted that "whenever a sale by auction of land would be invalid at law by reason of the employment of a puffer, the same shall be deemed to be invalid in equity as well as at law."

That section does away with the old equity rule. Then by s. 5 it is provided as follows:—

> "That the particulars or conditions of sale by auction of any land shall state whether such land will be sold without reserve, or subject to a reserved price or whether a right to bid is reserved; if it is stated that such land will be sold without reserve, or to that effect, then it shall not be lawful for the seller to employ any person to bid at such sale, or for the auctioneer to take knowingly any bidding from any such person."

It is interesting to notice that the section makes no express provisions for a case where nothing is said one way or the other as to there being a reserved price or a reservation by the vendor to bid, but this seems to be covered by s. 4, which abolishes the equitable rule allowing one puffer and leaves the matter as it stood at common law, namely, that neither the vendor nor any agent for him might bid.

Section 6 enacts:—

> "And where any sale by auction of land is declared either in the particulars or conditions of such sale to be subject to a right for the seller to bid, it shall be lawful for the seller or any one person on his behalf to bid at such auction in such manner as he shall think proper."

The Act was early the subject of a judicial decision. In *Gilliat* v. *Gilliat* (1869), L.R. 1, Eq. 60, the facts were, that there was a sale by auction held under an order of the court and a reserved price. The conditions of sale stated "the sale is subject to a reserved bidding which has been fixed by the judge to whose court the case is attached." It transpired that the vendor employed an agent to bid up to the reserved price and the agent did so up to a price slightly below the reserved price. the purchaser then bidding the amount of the reserve and the auctioneer stated that the reserve fixed by the court had been reached and that if there was no higher sum bid the property would be sold for that sum. There being no higher bid the property was knocked down to the purchaser. It was held that the sale must be set aside. Lord Romilly, M.R., said: "I think that the Act makes a distinction between

a reserved bidding and a reserved right to bid. It says that you must state whether there is a reserved price or not, and further, that if you state that there is a reserved price, you must also state that a right to bid is reserved in order that you may employ a person to bid on your behalf. Therefore, this sale must be set aside."

In *Hills and Grant, Ltd.* v. *Hodson*, to which I have referred, the facts were that in a sale by auction of certain property, the defendant was declared to be the highest bidder, and he subsequently signed the usual form of contract which, amongst other things, stated that he was in fact the purchaser of the property. The sale was subject to certain special conditions, clause 1 of which stated that the property was sold subject to the National Conditions of Sale, and by another clause it was stipulated that in the event of the property remaining unsold or being bought in by the vendors, the vendors should be entitled to withdraw another lot from the sale. Clause 1 of the National Conditions of Sale is well known, and provides that, subject to the vendors bidding up to a reserve price, the highest bidder should be the purchaser.

In an action by the plaintiffs (the vendors) for specific performance of the agreement by the defendant to purchase the property, the defendant pleaded (1) that he had agreed to bid at the sale merely as a puffer or dummy bidder on behalf of the vendors, and (2) that the vendors had employed other puffers to bid on their behalf, and that such employment was contrary to the Sale of Land by Auction Act, 1867, s. 6, and also to the conditions of sale.

The defendant at the trial contended that the sale was in fact one without reserve, and therefore that the vendors were precluded from bidding either by themselves or their agent by reason of s. 5 of the Act.

It was held, in fact, that the defendant was bidding for himself. That, however, is not a point of much importance except to the parties concerned. It is, nevertheless, of some interest to most of us that it was also held that there had been no contravention of s. 6 of the Act, and that with regard to s. 5 of the Act, there was no necessity for the use of the words "without reserve" or "with reserve," and no others should be used in the particulars or conditions of sale. The requirements of the section were, so it was held, satisfied, if it were made plain, in whatever words might be used, that the property was subject to a reserve.

It is interesting to observe that the "National Conditions of Sale" have thus been supported, and incidentally the "General Conditions."

I hope to have an opportunity of comparing these well-known conditions of sale and others to be found in the precedent books. I may, in the meantime, observe that it is a matter for regret that there should be any doubt at all upon what would appear to be and has always been taken to be one generally accepted as beyond dispute.

Landlord and Tenant Notebook.

Tenant's Claim for Arbitration as to Rent.

The Agricultural Holdings Act, 1923, is a consolidating statute, and its twelfth section, divided into eleven sub-sections, contains a complete code of the law as to security of tenure of agricultural holdings. It is, in the circumstances, well arranged, and anyone called upon to advise a landlord can master the subject by reading the sub-sections in the order in which they appear and with only occasional reference to the interpretation section (s. 57). Roughly, the scheme of the code is to make the landlord pay the tenant's moving expenses if he (the landlord) gives notice to quit without good cause, and the section commences by setting out the circumstances under which the landlord is excused. But when it comes to considering the only circumstances in which a tenant can both give notice to quit and claim for "disturbance," it will be found more convenient to study the relevant provisions in quite a different order.

Suppose, then, that a tenant farmer consults you and says his rent is too high and that he understands he can either get it reduced or else give notice to quit and recover a year's rent as compensation for disturbance. Suppose, too, that the rent is in fact excessive. You may be disposed to advise your client, by reference to s. 12 (3), that the correct procedure is to demand arbitration as to rent, wait and see whether the landlord agrees to arbitrate, and, if he does not, give notice to quit and claim accordingly; but a perusal of the whole of the section shows that it is advisable to commence by explaining the effect of certain other sub-sections before recommending the first step under sub-s. (3).

In practice, the first point a solicitor should direct his client's attention to is the measure of compensation. The idea of "a year's rent" is very prevalent in tenant-farming circles, and it is as well to explain to the client that (i) in so far as it is correct, the steps he contemplates taking may lead to qualifying him for an amount representing not the rent he is at present paying and complaining of, but the rent settled by the arbitrator; for the landlord may agree to arbitrate and/or accept a reduction, and subsequently give notice to quit and obtain the advantage of less compensation; and (ii) that while there is a presumption in favour of one year's rent, that presumption does not arise till it is shown that some loss and expense is incurred (see sub-s. (6) and *Minister of Agriculture* v. *Dean* [1924] 1 K.B. 851, C.A.). It is, of course, very unusual for a claim to be defeated on this ground, and the farmer who is entitled to anything at all is always entitled to a year's rent at least, while if he can show that his loss and expense exceeds that figure he may recover up to an amount representing two years' rent.

These two points having been dealt with, the proviso to sub-s. (3) and the first three paragraphs of sub-s. (1) should next be considered. In other words, the client should be asked whether his own house is in order. For if, when he serves his demand for arbitration, he is not observing the rules of good husbandry, the landlord can snap his fingers; can refuse or neglect to agree to the arbitration and, in the event of notice to quit given by the tenant following, escapes liability for compensation for disturbance. The same applies if he has committed an irremediable breach, to the landlord's prejudice, of any term of the tenancy consistent with good husbandry.

What are the rules of good husbandry is a subject in itself, and cannot be discussed in the present article. They are described rather than set out in s. 57 (1); for present purposes suffice it to say that whether they have been broken or not depends to some extent on the terms of the tenancy, so that there is no absolute standard, and it is impossible to advise the tenant without seeing his agreement or lease.

Such is the combined effect of the proviso to s. 12 (3), and paras. (*a*) and (*c*) of sub-s. (1) of s. 1. When it comes to considering the paragraph (*b*), the position is rather more difficult. For (*b*) deals with being in arrear with rent and with remediable breach of any covenant that is consistent with good husbandry; but the section in which it appears regards compensation from the point of view of a landlord giving notice to quit. And it provides that the landlord, in order to make these matters an excuse, must give notice demanding the payment of the rent due or the remedying of the breach of covenant, and that the tenant must within a reasonable time have failed to comply. Now, the language of the proviso to s. 12 (3), which applies these defences to a claim by a tenant who has given notice to quit in consequence of his landlord's not agreeing to arbitrate is "compensation shall not be payable if the circumstances are such that a notice to quit could have been given by the landlord for any of the reasons mentioned in paras. (*a*), (*b*) or (*c*) of sub-s. (1) of this section." The circumstances are such

—when ? At the time of the demand for arbitration, at the time of the tenant's notice to quit, or at the time when compensation becomes payable ? It is not easy to say. On the whole, I think the time of the notice to quit is what is meant. The matter is of some importance, for a tenant may be in arrear or in default but not have received any notice demanding payment or remedial activities from his landlord when he sends his demand to agree to arbitrate, and must give the landlord a " reasonable time " before following it up with a notice to quit. If my construction be correct, the landlord can send a notice demanding the rent or the remedying of the breach by return of post ; and the question then arises, which " reasonable time " expires first.

Assuming all is well, and that the landlord does not agree to arbitrate, care must be taken when giving the notice to quit to specify whether it is for refusal or for failure to agree ; but I dealt with the technicalities of this step, and with those to which attention must be paid when the time comes for making a claim, in the " Notebook " of 9th September last (77 Sol. J. 827).

Our County Court Letter.

THE PERSONAL LIABILITY OF SHOP MANAGERS.

The above subject has been considered in three recent cases. In *Carter* v. *Garner*, at Bristol County Court, the claim was for £10 1s. for meat supplied to the defendant's shop. The plaintiff's case was that (1) there had been previous transactions between the parties in 1928, when all amounts due had been paid by the defendant ; (2) in May, 1933, he ordered further meat to the value of £13 1s., but had only paid two amounts (£2 and £1) by cheque, leaving the above balance outstanding. The defendant's case was that (*a*) although the shop bore the sign " J. R. Garner, retail butcher," he was merely the manager for a Miss Lane—a position he had held for five years ; (*b*) the meat was usually ordered by her, over the telephone. Corroborative evidence was given by Miss Lane, who stated that (1) she had registered the business in the above name, as she did not wish to appear to be competing with her relatives, who were well-known butchers ; (2) she herself did not dispute the account, and had tendered her cheque before the action was brought against the defendant. His Honour Deputy Judge F. A. Wilshire gave judgment for the plaintiff, with costs.

In *Eldorado Ice Cream Co. Ltd.* v. *Ashton*, at Ipswich County Court, the claim was for £10 as the cost of removing a Frigidaire cabinet. The plaintiffs' case was that in December, 1931, the defendant had signed an agreement to hire the cabinet, on condition that (*a*) if he did not sell £60 worth of ice cream (from April to September) the cabinet should be withdrawn ; (*b*) the defendant would pay £10 as the cost of removal. The defendant's case was that (1) he was induced to sign by misrepresentation, viz., that the £10 penalty was never enforced ; (2) in the absence of notice to terminate the agreement, the above sum was not recoverable, as the cabinet was removed in August, 1933, before the end of the season ; (3) the contract was made on behalf of a disclosed principal, viz., the defendant's father, who owned the business and paid all the accounts ; (4) in the absence of a proviso that the agent should be liable, the action could therefore only be brought against the principal, even though the agent had signed the agreement. His Honour Judge Hildesley, K.C., held that the defendant (having signed the agreement) was liable thereon, even though his father might also be liable. Judgment was therefore given for the plaintiffs, with costs. It transpired that the reason for removal was that the cabinet, while consuming much current, was not a source of revenue to the defendant, and could be more profitably worked by the plaintiffs on the coast.

In *Silver & Co.* v. *Riley*, at Liverpool County Court, the claim was for £5 11s. for drapery supplied to the shop of the defendant, trading as " McCullens." The plaintiffs' case was that (1) they had always supplied goods to the defendant, who was understood to be Miss McCullen, the daughter of the proprietress ; (2) the defendant's real name was not discovered until after the shop had been vacated. The defendant's case was that (*a*) for twelve years she had been manageress (at a weekly wage of 25s.) to Mrs. McCullen ; (*b*) the latter went to the U.S.A. five years ago, but (having lost her money) had instructed the defendant to sell the business ; (*c*) the defendant had recently only drawn 14s. a week in wages, and the previous employers of the plaintiffs' traveller were aware of her position. His Honour Judge Dowdall, K.C., held that (1) if the plaintiffs' traveller had known the defendant was not Miss McCullen, she would not be liable ; (*b*) by answering to the latter name, and giving orders, the defendant had given him reason to suppose that she was carrying on the business. Judgment was therefore given for the plaintiffs, with costs.

Land and Estate Topics.

By J. A. MORAN.

The accumulating need for an outlet for unemployed funds, and the growing appreciation of the advantages arising from investment in real property, have continued to raise values to a level that would, probably, have been put down as fictitious a few years ago—a level too that may not be maintained when trade recovery definitely sets in. Discrimination in making purchases is, therefore, necessary to a greater degree than usual, and a word of caution to the unitiated may not be out of place. Everything may look very nice to the amateur eye ; but it is well to remember that things that are hidden away behind floorboards or plaster are what really count when contemplating the durability of a residence. It is well, therefore, to consult an expert before signing a contract.

There is good news for those local authorities who, in order to gain the subsidy, have been making praiseworthy efforts to complete the building of their houses by the end of March. If good reasons are forthcoming, the Minister of Health is prepared to extend the time for completion by a further three months.

It is just what was generally expected. The Councils of the Chartered Surveyors' Institution, the Land Agents' Society and the Auctioneers and Estate Agents' Institute put their heads together, and the result was a unanimous opinion that any measure which Parliament is at present likely to grant for the regulation and control of the profession of surveyor, land agent, auctioneer, estate agent and valuer will, on balance, bring no benefit either to the public or to those professions. The public are in a position to protect themselves from the dangers which registration is out to move. And that's that.

In his address at the Chartered Surveyors' Institution, Professor Carr-Saunders said little of the civic and æsthetic ideals of town planning ; he dealt mainly with the industrial and sociological facts. At present, as the professor pointed out, local authorities compete with each other to persuade industrialists to settle in their areas in order to solve local unemployment problems. This only means confusion. What is wanted is national co-ordination in town planning. As Dean Inge said, in the subsequent discussion, ours would be a happier country, if we only had 30,000,000 people, all employed, well paid, and not overcrowded. But fancy leads us nowhere in a matter of practical necessity, and our plain duty in the matter of town planning is to make the most of our opportunities and to see that every avenue is availed of when making a combined effort to relieve the congestion that impairs health and rusts the wheels of industrial progress.

The College of Estate Management continues its course of admirable and timely lectures ; and students have every

reason to be indebted to the guiding authorities. Addressing the students on "The design of small houses," Mr. Edwin Gunn, A.R.I.B.A., gave a number of "don'ts" for cottage construction. Among them were the following: No cooking range should ever be so placed that users must necessarily stand in their own light; the passage from range to sink should never involve passing more than one door; where the route to the scullery from upstairs passes through the living room it should never be necessary to cross the room diagonally; no bedroom should be planned in which it is not possible to place a double bed with space for passage clear of the chimney breast; and finally, winders should not be employed on stairs if they could be dispensed with, but if they must be used, they should be at the bottom and not the top.

Where do historical associations begin or end? They may influence the sale of a property, or they may not; but before the distant past is invoked there should be a genuine attempt to catch the popular imagination. Only a few days ago, the tenant of a cottage in the Northamptonshire village of Biddington was summoned by the rural council for failing to abate a nuisance. The chairman said its history was very interesting, and the clerk suggested that the fact that the cottage was historic was an additional reason for keeping it in repair.

"Historic"! All I can find out about the habitation is that William Carey was born there. Originally a shoemaker, Carey was the first Baptist missionary to be sent to India. Seems to me but a very poor link with the past.

The well-known firm of land agents and surveyors, Messrs. J. Carter Jonas & Sons, of London, Oxford and Cambridge, have recently appointed as an additional partner Mr. John Carter Jonas, P.A.S.I. The activities of this firm should keep many partners busy, as, in addition to the Receivership of the Crown Agricultural estates, they act as agents for Lord Carrington, the Earl of Dartmouth, Colonel C. H. E. Coote, Colonel Goodall, Major Aubrey-Fletcher, Capt. Briscoe, M.P., the Eveline Trustees, certain of the Oxford and Cambridge Colleges, and others.

It appears easy enough to find purchasers for small properties or business-premises in large industrial centres, but the cause of trouble is the large country mansion. If it be not wanted by the local authority or for the purposes of a school or institution, its future is in the lap of the gods. For in these times of heavy taxation and cost of upkeep, there are not many disposed to assume the financial hardship entailed on a residential owner. It might be well worth the while of the nation to rent some of these mansions as compulsory resting places for tired and overwrought legislators.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Motor Car Licences.

Sir,—Referring to your observations under the heading "Days of Grace," in your issue of the 20th inst., would you give your opinion as to whether s. 22 of the Revenue Act has any bearing on the subject. That section requires declarations to be made by any person who (*inter alia*) keeps a carriage and provides for payment of duties "*before the expiration of the month of January in each year* or *before the expiration of twenty-one days from the day of his commencing . . . to keep or use any carriage.*"

Section 23 of the same Act deals with declarations required where by reason of additional carriages being used or a change in the character of a carriage the owner has become liable to additional duty.

Section 64 of the Finance Act, 1920, provides that Part I of the Act (which, *inter alia*, imposes duties on mechanically-propelled vehicles) shall, so far as it relates to duties of excise, be construed together with the Acts which relate to the duties of excise and the management of those duties.

Section 5 (6) of the Roads Act, 1920, provides that ss. 22 and 23 of the Revenue Act, 1869, "shall have effect as though references to the declarations to be so prescribed as aforesaid were therein substituted in relation to carriages for references to declarations under that Act."

Norwich. ERNEST I. WATSON.
22nd January.

[This letter raises an interesting point, but it does not appear to affect directly the principles contained in our "Topic" "Days of Grace." It is true that s. 22 of the Customs and Inland Revenue Duties Act, 1869, deals to some extent with the same subject-matter, but the point of view is different. That section imposes a duty on the *owner* of carriages or male servants, etc., which is in the nature of a personal tax, and the carriage (or male servant) carries no visible sign of the licence. On the other hand, under the Road Vehicles (Registration and Licensing) Regulations (which are made indeed *inter alia* under the Roads Act, 1920, and the Finance Act, 1920) what is required is a licence of the vehicle itself, not a licence to the owner, and the vehicle bears the registration mark. That the subject is different is further shown both by the different periods prescribed for paying the duties and by the different penalties imposed for the failure to pay. But although the point raised is therefore not relevant to our paragraph, it is very relevant to many persons, and we are glad that it has been brought forward.—ED., *Sol. J.*]

National Conditions of Sale.

Sir,—During the course of correspondence between a firm of solicitors acting for the vendor and another firm of solicitors acting for the purchaser relating to a contract for sale and purchase, the following appeared in the correspondence:—

> "No purchaser, unless he be a solicitor (and then not always) has ever, to our knowledge, been fully aware of these conditions. He has never read them, he does not know what they are about, and blindly takes it for granted that he is not prejudiced. In our opinion, no purchaser should be in this position.
>
> "Apart from the point raised above the National Conditions of Sale preclude a purchaser from making a proper investigation of the title."

These are our views, and it would be interesting to hear the views of other solicitors, more especially those acting for a purchaser.

A. E. HAMLIN, BROWN & CO.

Soho-square, W.1.
24th January.

[NOTE.—We have submitted our correspondent's letter to the draftsman of the National Conditions of Sale, whose comment is to the following effect:—

"The objections to the National Conditions of Sale in Messrs. A. E. Hamlin, Brown & Co.'s letter of 24th January, 1934, would have more force if they were not expressed in such very general terms.

In particular, the statement that the National Conditions of Sale preclude a purchaser from making a proper investigation of title would carry more weight if the objectors would indicate more precisely the grounds on which the statement is based.

The National Conditions of Sale have been prepared with the view of holding the scales (so far as may be) evenly between vendor and purchaser, and have been widely used for a great number of years. It is not claimed that they are incapable of improvement, and any suggestions to that end will be welcomed by the persons responsible for the form of the Conditions, but it is submitted that no useful purpose is served by vague and general objections of the nature above referred to." ED., *Sol. J.*]

To-day and Yesterday.

LEGAL CALENDAR.

29 JANUARY.—Sir Cresswell Levinz died at Serjeants' Inn on the 29th January, 1701. He had been a Justice of the Common Pleas from 1680 to 1686, when he had been suddenly dismissed. His own explanation was "I thought my discharge was because I would not give judgment upon the soldier who deserted his colours and for being against the dispensing power." After that, he had returned to the Bar and resumed a flourishing practice. He is responsible for the law reports bearing his name.

30 JANUARY.—"Of your charity pray for the souls of Sir Robert Brudenell, knight, late Chief Justice of the King's Common Bench, at Westminster, and of Margaret and Philippa his wives." Such was the epitaph written on the alabaster tomb in Dene Church, Northamptonshire, where, after his death on the 30th January, 1531, the remains of the learned judge were laid between those of his two wives. Among his descendants was the Earl of Cardigan, who led the charge of the Light Brigade.

31 JANUARY.—Lord Mohun entered the public eye at seventeen by being tried for murder by the House of Lords. The story told to the peers on the 31st January, 1692, was one of stage-door rivalry. A Captain Hill having found the attentions he pressed on Mrs. Bracegirdle the actress unwelcome, conceived an actor named Mountfort to be his obstacle, and one night he and Mohun, with drawn swords, paraded the street where this rival lived. When he approached, he was cordially greeted by Mohun, but a scuffle followed, in which Hill ran him through. A majority of the Lords acquitted Mohun, though during the trial one of his relatives said he ought to be "taken away and whipt."

1 FEBRUARY.—Edward Coke was born at Mileham, his mother's estate, on the 1st February, 1552. His father was a bencher of Lincoln's Inn.

2 FEBRUARY.—The last Inner Temple Revel was held on the 2nd February, 1734, in honour of Lord Chancellor Talbot. After an elegant dinner in Hall and a performance of Congreve's "Love for Love," came a ceremony immemorially ancient. The Master of the Revels took the hand of the Chancellor, who grasped that of Mr. Justice Page, and thus linked in a wide circle, judges, serjeants and benchers danced gravely thrice round the fireplace in the centre of the Hall chanting the traditional song "Round about our Coal Fire." Professional mysteries being ended, the ladies descended from the gallery for something modern in the way of minuets.

3 FEBRUARY.—In 1793, France was the terror of Europe. She had slaughtered her royal family, proclaimed ideals subversive to society and made war on her neighbours. So when "a number of seditious and evil-disposed persons" met at Edinburgh as the "British Convention of the Delegates of the People," imitating in the form of their proceedings the Convention of France, called each other "citizen" and declaimed against priestcraft and tyranny, authority was alarmed. Alexander Scott, an active member, was indicted for sedition, but when the case came on, on the 3rd February, 1794, he did not appear and was declared outlaw in his absence.

4 FEBRUARY.—The *Wensleydale Peerage Case* opened on the 4th February, 1856. After twenty-seven years' service on the Bench, Mr. Baron Parke had resigned, but the Crown, wishing to secure his services for the House of Lords, granted him letters patent purporting to create him a peer for life. The Committee of Privileges held, however, that such a grant conferred no right to sit and vote in the House and the learned judge had to be given a peerage in tail male. However, it all came to the same in the end, for Lord Wensleydale, as he became, survived his sons and the title died with him.

THE WEEK'S PERSONALITY.

The great Sir Edward Coke, C.J., was the only son of Robert Coke, of Mileham, a Bencher of Lincoln's Inn. He came into the world suddenly at the parlour fire-side, before his mother could be carried up to her bed, and apparently he displayed such extraordinary energy on this occasion that great things were predicted of his future. In his old age, he was fond of boasting of this precocious activity. His mother taught him to read and he used to attribute to her influence his life-long habit of steady application. He might have lived the life of a country gentleman on the family possessions, hunting most of the time and only touching the law as a Justice of the Peace, had not his father's death left the estate burdened with his mother's jointure as well as portions for his seven sisters. He therefore went to London, determined to succeed in the profession from which death had snatched his father, and spurred by devouring ambition, not unmixed with a grasping love of riches, he succeeded. He came to be "the founder of our legal storehouse and, which his rivals must confess, though their spleen should burst by reason of it, the head of our jurisprudence." Truly it was declared that he would be renowned "while Fame hath a trumpet left her and any breath to blow therein."

DUELS AT THE BAR.

Those two Parisian barristers, whom political animosity brought to blows in the Palais de Justice and to shots on the duelling ground, recall by their gesture the days when pistols played their part in the politics of these islands—even though both the antagonists in this case left the field of honour whole and unhurt. In the troubled times with which the eighteenth century closed and the nineteenth opened in Ireland, a good shot might be raised to the Bench before a good lawyer, in reward for services rendered to the Government. Of Mr. Justice Daly it was said, that he was "ignorant of law, but very skilful in duelling—he could always shoot the friends of Ireland with pistols in the field, though he could not reply to them by his eloquence in the House." The notorious Lord Chief Justice Norbury, whom O'Connell described as "one of Castlereagh's unprincipled Janizaries," owed his promotion to similar talents. Challenges were plentiful in those days, and O'Connell once received one from a litigant whom he had offended in cross-examination. Immediately after, however, the offended gentleman sent a second letter explaining that he had found that O'Connell's name had been inserted in a valuable lease of his. "Under these circumstances," he wrote, "I cannot afford to shoot you, unless you first insure your life for my benefit."

CASTING ASPERSIONS.

It is hardly surprising that Mr. Justice Swift's recent observation that "one of the chief accomplishments of a solicitor's clerk is to muddle correspondence by not paging it properly," should have given rise to some protest at The Law Society. A remark much in the same spirit once brought about a clash between Mr. Justice Grantham and the Bar Council. The learned judge had said in court that "counsel are paid to raise false issues before the jury," and though he subsequently made every reparation to the particular advocate to whom these words were addressed, he treated the representations of the Bar Council with characteristic independence. Indeed, unless some personal injury is done, it may usually be best to let such *obiter dicta* lie where they fall. I do not know that anyone ever raised an outcry over Lord Justice Knight-Bruce's cynical observation at the end of an administration action: "The estate will be divided in the usual way among the solicitors." In fact, Lord Justice James was very fond of citing it.

Mr. William Henry Trotter Brown, LL.B., J.P., solicitor of Wallasey, Cheshire, left £28,170, with net personalty £27,285.

Reviews.

Courtney Stanhope Kenny, 1847-1930. London: Humphrey Milford, Oxford University Press. 3s. 6d. net.

All who have studied Kenny's books on criminal law and tort—and their name must be legion—will accord a hearty welcome to this tasteful re-print of the sketch, done lovingly, of the author's career, and the account of his many-sided activities, from the pen of Professor Hazeltine, which originally appeared in the "Proceedings of the British Academy." Rarely have we read so charming a biography in miniature of one who spent the greater part of his life in the law, not, indeed, that Kenny was only active in this sphere; he was much more; he was a man of affairs, being for some years a Member of the House of Commons, where he did much useful work, besides taking an active part in the administrative and legal business of the City and County of Cambridge. Like his friend and contemporary, Professor F. W. Maitland, he had a genius for law and a skill in its exposition seldom excelled, being able, moreover, to delight his audiences by introducing quiet touches of humour, some of which are happily preserved in his various volumes. For English law books longevity can rarely be predicated, but for those that came from Kenny's pen a fairly long life is assured, while one of his volumes, "Outlines of Criminal Law," has enjoyed the distinction of appearing in a French translation, a tribute not often paid to an English legal treatise. We cordially commend this brochure to the attention of our readers who will find it full of human, as well as legal, interest.

Select Cases in the Law of Scotland. By Andrew Dewar Gibb, LL.B., Advocate, and of Gray's Inn, Barrister-at-Law. 1933. Demy 8vo. pp. xii and 135. Edinburgh: W. Green and Son, Ltd. 10s. net.

This little volume is a valuable addition to the handbooks intended for those contemplating entering the legal profession in Scotland. Till recently this class was very sparingly catered for by legal authors as compared with their brethren in England where the production of books intended to lighten the path of the law student has gone on merrily for very many years. Mr. Dewar Gibb's volume, if we are not mistaken, is the first counterpart of "Shirley," prepared for Scottish students, and although it is much smaller in bulk than "Shirley," it should prove as popular as that well-known work. The headnotes provided are commendably brief, but lose nothing in accuracy by their brevity. The cases selected deal with contract—its formation, the capacity of parties, assignment (called in the north "assignation"), performance (with several useful cases on the subject of impossibility), misrepresentation and damages for breach; principal and agent; sale of goods; then, passing from contract, a number of cases are selected to illustrate the subject of reparation, by which title the Scots lawyer describes those which we deal with under the heading of torts. Following these are cases on husband and wife, and these again by one or two on criminal law. An exceedingly useful book.

The Law as to Children and Young Persons. By Edward J. Bullock, M.A. (Oxon.), of the Inner Temple, the Midland Circuit and the C.C.C., Barrister-at-Law, with a Foreword by The Right Honourable The Viscount Buckmaster, G.C.V.O. 1933. Royal 8vo. pp. xxv and (with Index) 206. Supplement pp. vii and 107. London: Stevens & Sons, Ltd. 15s. net.

The Children and Young Persons Act, 1932, has effected considerable changes in this branch of the law, while the Act of 1933 has consolidated, with one exception, the various Children's Acts passed between 1908 and 1932. This book therefore makes an opportune appearance. It sets out to be a guide to all those interested in the law relating to children, whether as judges, magistrates or justices or their clerks, practitioners, employers of children, or factory or other inspectors. As the very distinguished writer of the Foreword says, the book appears to accomplish its purpose. Within conveniently portable dimensions it contains a mass of statutes relating to children conveniently arranged and well annotated with references to the decided cases. There is also a useful Introduction summarising under various headings the law contained in the book, with references to the various relevant sections. The passing of the Act of 1933 has necessitated the addition of a Supplement, which shows the effect of the Act upon the earlier statutes. It also contains the rules and forms laid down under the Act. There is no index to the Supplement, but by reference to the main index the subject-matter can be discovered and the relevant part of the 1933 Act then ascertained by reference to the table on pp. 3 and 4 of the Supplement. The book does not deal with any of the many relationships of children at common law. That is professedly outside its scope. But it does provide an excellent collection of the relevant statute law, and it should be particularly helpful to those engaged in any capacity in juvenile courts, which are rapidly increasing in numbers and scope as the tendency to treat children as different from adult criminals and to educate rather than punish becomes more marked.

Auditing. By the late Lawrence R. Dicksee, M.Com., F.C.A. Fifteenth Edition, 1933, by Stanley W. Rowland, LL.B. (Lond.), F.C.A. Royal 8vo. pp. xvii and (with Index) 1132. London: Gee & Co. (Publishers), Ltd. 21s. net.

This standard work has been completely revised and brought up to date by Mr. Rowland. The original chapters have been re-arranged and revised and the form of the index has been much improved.

A lot of matter which was of historical interest only has been eliminated.

The effect of this is to emphasise the practical nature of the work. No practitioner can afford to be without this invaluable guide.

Books Received.

The Local Government Act, 1933. By H. Samuels, of the Middle Temple and Northern Circuit, Barrister-at-Law. 1934. Royal 8vo. pp. lxii, xvii, and (with Index) 290. London: Eyre & Spottiswoode (Publishers), Ltd. 12s. 6d. net.

Practical Auditing. By Ernest Evan Spicer, F.C.A., and Ernest C. Pegler, F.C.A. Sixth Edition. 1933. By Walter W. Bigg, F.C.A., F.S.A.A. Royal 8vo. pp. xx and (with Index) 616. London: H. F. L. (Publishers) Ltd. 21s. net.

Leading Cases in the International Private Law of Scotland. By Lachlan Mackinnon, D.S.O., M.A., LL.B., Advocate in Aberdeen. 1934. Demy 8vo. pp. xvi and 100. Edinburgh: W. Green & Son, Ltd. 7s. 6d. net.

The Students' Conflict of Laws. By E. Leslie Burgin, LL.D. (Lond.), Solicitor, formerly Principal and Director of Legal Studies to The Law Society, London, and Eric G. M. Fletcher, LL.D., B.A. (Lond.), Solicitor. Second Edition. 1934. Royal 8vo. pp. xvi and (with Index) 344. London: Stevens and Sons, Ltd.; Sweet & Maxwell, Ltd. 20s. net.

The Law Relating to Carriage of Goods by Land in a Nutshell. By J. A. Balfour, of the Middle Temple, and the South-Eastern Circuit, Barrister-at-Law. 1934. Demy 8vo. pp. vi and 59. London: Sweet & Maxwell, Ltd. 3s. 6d. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London and Liverpool.]

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Whether a Search by a First Mortgagee for Puisne Mortgages is Necessary on Repayment.

Q. 2905. Is a first mortgagee whose mortgage has been repaid under any obligation to search at the Land Registry for puisne mortgages before delivering the title deeds to the mortgagor? He has not received notice of a second mortgage.

A. No. See L.P.A., 1925, s. 96 (2), as amended by L.P. (Amend.) A., 1926, Sched.

Freehold Subject to a Sub-Mortgaged Mortgage—Mortgagee Disappeared—Sale—Procedure.

Q. 2906. A has just purchased the equity of redemption in respect of Black Acre. The property is subject to various mortgages, all of which became vested in B, of the aggregate amount of £1,000. B by her will bequeathed the £1,000 with the mortgage security to C. B died in 1920. C by a sub-mortgage in 1923 mortgaged the £1,000 and the security for the same to D and E, who provided their mortgage money out of a joint account. In 1925 D died. The whereabouts of C cannot be traced. Letters addressed to her at her then last known address in 1927 were returned through the Dead Letter Office and nothing has been heared of her since that date, and it is not known whether she is alive. A is desirous of serving notice of his intention to repay the mortgage money. It is assumed that notice must be served on E and C, and assuming that a letter addressed to C's last known address is returned through the Dead Letter Office, what can A do to get in any outstanding estate of C, as A purchased the property with a view to re-selling? Does it make any difference if E has been in receipt of the mortgage interest since 1928? The sub-mortgage is for £950 at 6 per cent., and the other mortgages are for £1,000 at 5 per cent.

A. On the assumption that the mortgage security for the £1,000 was duly vested in C before 1926 (which was no doubt the case) the transitional provisions of L.P.A., 1925 (Sched. I, Pt. VIII), on the 1st day of January, 1926, vested a term of 3,000 years as from that date in C, a derivative term of 3,000 years less a day from that date in E, and the fee simple subject thereto in A's predecessor in title. It is suggested that A should take a transfer of the sub-mortgage (the interest upon which must presumably be in arrear or else C would be able to be found) and sell in right thereof (see L.P.A., 1925, s. 88 (5)). Even if E has received interest since 1928, it seems inevitable that interest should be at least two months in arrear to comply with L.P.A., 1925, s. 103 (ii). The price to be paid for the transfer will no doubt be a matter of negotiation but should not of course exceed the full amount due to C for principal, interest and costs.

Will—Construction—Specific Devise "Free from Duty"—Direction to Pay "Testamentary Expenses and Death Duties payable out of Capital on . . . Death and the Duties on all Legacies bequeathed Free from Duty"—Incidence of Estate Duty.

Q. 2907. By his will dated 22nd April, 1933, the testator specifically devised to his wife a freehold in fee simple "free from duty." By a subsequent paragraph thereof, he directed his trustees to pay "his testamentary expenses and death duties payable out of capital on his death and the duties on all legacies bequeathed free from duty." In view of the decision in *Re Pimm, Sharpe* v. *Hodgson* [1904] 2 Ch. 345, it is thought that the testator's intention is sufficiently expressed to justify the trustees in paying estate duty on the freehold specifically devised. An expression of opinion on the point would be esteemed.

A. Specifically devised realty in the normal case bears its own estate duty (Finance Act, 1894, s. 9 (1)), for it does not pass to the executor as such, but by virtue of A. of E.A., 1925, s. 1 (1): *Re Palmer, Palmer* v. *Rose-Innes* [1900] W.N. 91. If, then, the estate duty on this specifically devised realty is to be paid out of the general residue it must be expressly relieved of its primary liability to bear its own estate duty. We do not think that this relief is to be found in the phrase "my testamentary expenses and death duties payable out of capital on my death and the duties on all legacies bequeathed free from duty." Estate duty on realty specifically devised is not a "testamentary expense," seeing that representation can be obtained without paying it (*Re Previte, Sturges* v. *Previte* [1931] 1 Ch. 447), nor does it appear to be a duty payable out of the capital of the deceased's estate (*Re Previte, ubi supra*), nor is a specific devise a "legacy" (unless perhaps if given with words of bequest as distinct from words of devise, which we assume not to be the case). It remains to consider whether this relief is to be found in the fact that the devise was made "free from duty." This expression does not appear to have any special legal meaning, but must be construed in each case according to the provisions of the will in question: "Davidson's Concise Precedents," 21st ed., p. 560. It is not unreasonable to suppose that in this case the testator did not have succession duty in mind any more than estate duty, if succession duty is in fact payable at all by his widow, and that he had in mind to confer a benefit on her clear of death taxes. On this basis we express the opinion, and with the usual reservation as to the effect, if any, on our opinion of a perusal of the will as a whole, that the estate duty on the freehold is payable out of the general residue. We have referred to *Re Pimm* [1904] 2 Ch. 345; [1904] P. 700, in which case there was a direction to "pay my . . . duties," which Farwell, J., thought was "a compendious way of expressing what (the testator) had in his mind," and that he meant to say "all duties to which my estate is liable by reason of any of the dispositions I have made in my will." With deference to our subscribers' contrary opinion, we doubt whether this case is really in point.

Will—Testatrix Neither a Parent nor *in loco parentis* of or to the Legatees—General Legacies (Contingent on attaining Twenty-one)—Intermediate Income.

Q. 2908. By her will A made (*inter alia*) the following bequests, namely: "I give (free of duty) One hundred One pound shares in the . . . Permanent Building Society to each of my following nephews and nieces namely: (names), such shares to be handed over to each of my said nephews and nieces on his or her respectively attaining the age of twenty-one years. Provided always that if any of my said nephews or nieces shall die before attaining the age of twenty-one years then the said Shares so bequeathed to him or her as aforesaid shall fall into and form part of my residuary estate." A was not *in loco parentis* to any of the beneficiaries, who are all under twenty-one years of age, and information is desired as to whether the income from the shares in question follows the capital and is consequently payable to the

beneficiaries, or whether until the shares are handed over it forms part of the residuary estate of the testatrix.

A. These legacies are in our opinion neither specific nor demonstrative, and this forces us to the conclusion that they are merely contingent general legacies. As the testatrix was not *in loco parentis* to the legatees, the intermediate income is not carried, unless it can be established that each contingent general legacy is under the terms of the will to be severed from the rest of the estate of the testatrix so as to be available for the benefit of the legatee when the contingency happens (*Re Medlock* (1886), 55 L.J. 738), and not for the mere acceleration of the distribution of the estate: *Re Inman* [1893] 3 Ch. 518. We suggest that there is here a clear indication that severance is to be made and for the benefit of the legatees. The testatrix contemplates the shares falling into residue on the failure of the contingencies, and to fall into residue they must be deemed removed from it. Nor does there appear to be any indication that such severance is for the mere convenient distribution of the rest of the estate. Subject, therefore, to any considerations which might arise upon the perusal of the will as a whole, we express the opinion that the intermediate income is carried. We do not consider the legacies specific, because there is nothing to indicate that the testatrix actually had enough or any shares in the society. If she did not possess any at the date of her death there would be no ademption. Nor are they demonstrative, no particular fund being indicated to meet them. There is but one other class of legacy, and that general legacies.

Shopkeeper's and Advertised Prices.

Q. 2909. (1) Can a shopkeeper refuse to supply a customer with goods if the goods are displayed in his shop and the customer tenders the price marked on the goods in cash?

(2) Further, if a shopkeeper issues a catalogue and a customer writes with cash for the goods specified in the catalogue (which the shopkeeper has in stock), can the shopkeeper return the money and refuse to supply the goods?

In both cases the shopkeeper will give no reason for his refusal to sell to the customer.

A. (1) The prices marked on the goods (in a window display) are mere invitations to do business—as opposed to offers. The position is therefore different from offers of a reward, or of a given sum, to any person who may fulfil certain conditions. In the latter event, any member of the public may claim the amount, as in *Carlill* v. *Carbolic Smoke Ball Co.* [1893] 1 Q.B. 256. The first question is therefore answered in the affirmative.

(2) The result of sending cash with order (in accordance with catalogue prices) was explained by Lord Herschell in *Grainger and Son* v. *Gough* [1896] A.C., at p. 334, viz.: "The transmission of such a price-list does *not* amount to an offer to supply an unlimited quantity of the wine described at the price named, so that as soon as an order is given there is a binding contract to supply that quantity." The second question is therefore answered in the affirmative.

The shopkeeper need give no reason. No contractual relationship arises on tender of the advertised price. The reason is that the shopkeeper might otherwise be involved in numerous contracts, without the ability to execute them all, as his stock of the article may be limited, and it is impossible (if all the orders arrive by the same post) to say which has the prior claim.

Insurance of Motorist's Passengers.

Q. 2910. A is covered by a policy for his car, complying with the usual requirements of the Road Traffic Act, and containing the following provision: "*The exceptions not covered by this Policy unless included by endorsement and extra premiums paid therefor are:*—(inter alia) (H) Liability in respect of death of or bodily injury to Passengers or other persons in such Vehicle." Such an endorsement does in fact appear and an extra premium was paid. The endorsement enlarges the cover which is stated to be "the Company shall indemnify the Insured against legal liability in respect of the death of or bodily injury to non-fare-paying passengers and/or other persons whilst . . . riding in any such vehicle." A has an accident injuring himself and his son (an infant). He was always given to understand that his policy covered him and was a comprehensive one, but it appears, from what he learns from the company, that he is not covered. The premium is a very high one. We are afraid that he is not covered, neither is his son. There is no question of a breach of the Policy conditions. We should like your opinion on the matter.

A. A is not himself covered by the policy, which indemnifies A, however, in two respects, viz.: (1) If he is under legal liability, and (2) if there has been . . . bodily injury to a non-fare-paying passenger. The second condition has been fulfilled, but the first can only be established if A's son (through a next friend) is prepared to sue A for negligence, and to give evidence against A. If the accident happened through a mechanical breakdown, A has not been guilty of negligence, and the company will not be liable, unless the policy covers accidents due to a defective condition of the car. A is doubtless required (by the policy) to render his utmost assistance in defending proceedings, and this involves the giving of evidence by A in denial of his son's allegation of negligence. If the court accept A's evidence, his son will not obtain judgment against him, and the company will not be liable. If another car was involved, A's son can sue both A and the other driver, and will obtain judgment against one of them. The loser will have to pay damages and costs to A's son, and also the costs of the successful co-defendant, which will be payable (in the first instance) by A's son.

Rent Restrictions Acts—Connection with New Water Supply.

Q. 2911. A is the owner of four cottages, three of which are controlled under the Rent, &c., Acts. The only water supply for drinking and other purposes at present available to the tenants is rainwater collected from the roofs of the cottages in underground cisterns. The local authority are laying a water main in the road to which the cottages front, and the owner proposes to lay a water service to each of the cottages with a tap in each scullery. Do you consider that what the owner proposes to do is an "improvement or structural alteration," within para. (*a*) of sub-s. (1) of s. 2 of the Rent, &c., Act, 1920, whereby the rent may be increased by 8 per cent., as provided by that paragraph? Assuming that the answer to the above is in the affirmative, can the owner recover from the tenants in respect of the increase of rates attributable to the water rate which will be payable to the local authority, and if so, it is assumed that notice in respect of the increase should be given. Will it make any difference to the position if the tenants (*a*) object or (*b*) consent to the proposed improvement?

A. Diverse views have been held as to whether such additions came within s. 2 of the Act of 1920, but there has been, as far as we are aware, no decision of the High Court on the point. The opinion is expressed, however, that the installation of the necessary pipes and taps comes within s. 7 of the Act of 1933 as a "provision of additional or improved fixtures and fittings," and that probably the whole cost of installation from the water main to the taps is included in the word "provision." Unless the landlord is compelled by the local authority to lay in pipes to the main—in other words, if the connection with the main is a voluntary act by the landlord—he should get the tenant's written consent in accordance with the proviso to the section. "Rates" include water rates and charges (s. 12 (1) of Act of 1920). It is considered that as this will be a new rate the notice of increase should cover both this and the cost of the improvement.

Notes of Cases.

High Court—Chancery Division.

In re Jones: Public Trustee *v.* Jones.

Bennett, J. 12th and 21st December, 1933.

WILL — CONSTRUCTION — RESIDUARY GIFT — TRUST FOR PERSON ENTITLED TO ENTAILED ESTATE—EFFECT OF BEQUEST—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 130 (3).

The testator bequeathed the residue of his property to trustees "to pay the income or allow it to be received by the beneficiary in possession of the Poulstone Estate, as set out in my uncle Richard Jones' will, in regard to the same to help a member of the family to hold the estate and reside thereon." Under the will referred to the estate was settled on the testator's eldest son for life, with remainder to his sons successively according to seniority in tail, with remainder to his daughters as tenants in common in equal shares, with remainder to the second, third, fourth, fifth, sixth and every other son of the testator, with similar limitations to their children respectively. The tenant in tail in remainder had executed no disentailing assurance. The question was whether the residue was to be held in trust for the first defendant, the tenant for life, during his life, "with remainder in trust for his eldest or only son (if any) absolutely, or in default of any such son, for his daughters (if any) and if more than one as tenants in common absolutely, or in default of any such son or daughter, for the second defendant during his life," with remainder in trust for his son absolutely.

BENNETT, J., in giving judgment, said that on construction the residuary gift was one whereby the trustees were to pay the income to the persons who became entitled in possession to the Poulstone Estate under the terms of the will of the testator's uncle. Before the Law of Property Act, 1925, this would have vested the residue absolutely in the present tenant in tail in remainder (*In re Fothergill's Estate* [1903] 1 Ch. 149). The question here, turning on s. 130 (3) of that Act, was whether under the testator's will his personal estate had been "directed to be held upon trusts corresponding to trusts affecting land." The section must be strictly construed (*In re Price* [1928] Ch. 570; *In re Hind* [1933] Ch. 208), and in the will there must be a use of the words mentioned in the sub-section. Since they were not used in this will, the sub-section did not apply, and the residue must be held on the trusts set out in the summons.

COUNSEL: *W. M. Hunt; Evershed*, K.C., and *The Hon. B. Bathurst; G. D. Johnston; J. Nesbitt.*

SOLICITORS: *Bridges, Sawtell & Co.; E. G. & J. W. Chester.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

In re Crossman, deceased.

Finlay, J. 21st December, 1933.

REVENUE—ESTATE DUTY—VALUATION OF BREWERY SHARES —PRICE LIMITATION BY ARTICLES OF COMPANY—OPEN MARKET VALUE—FINANCE ACT, 1894, s. 7 (5).

These were two petitions of appeal under s. 10 of the Finance Act, 1894, by the personal representatives of Sir W. T. Paulin and of P. Crossman, respectively, from decisions of the Commissioners of Inland Revenue fixing the principal value for the purposes of estate duty of the ordinary shares in Mann, Crossman & Paulin, Ltd., held by Sir W. T. Paulin and P. Crossman at the dates of their deaths at £475 a share, as compared with the values of £209 13s. 8d. in the case of Sir W. T. Paulin and £221 4s. in the case of P. Crossman put on them by the petitioners. Sir W. T. Paulin, who died on the 26th February, 1931, was at the time of his death the holder of 1,600 ordinary shares of £100 each in the company. P. Crossman was at the time of his death, on the 17th August, 1929, the holder of 1,000 ordinary shares. By Article 34 of the company's articles of association special provision was made as to the ordinary shares. It was provided that a holder of such shares might transfer or appoint by will any or all those shares to certain specified classes of his relatives, subject to the directors' approval of the transferee. Shares not so disposed of were to be placed in the hands of the company, which might within three months transfer them to another member at a price determined in accordance with elaborate provisions contained in the article. The "article prices" for the shares in question were those contended for by the petitioners. The Commissioners of Inland Revenue held that the restrictions in Article 34 must be disregarded, and the shares valued for estate duty as though the holder could freely dispose of them in the open market.

FINLAY, J., said that by s. 7 (5) of the Finance Act, 1894, "The principal value of any property shall be estimated to be the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market at the time of the death of the deceased." The difficulty in the present case arose because the articles contained very severe restrictions on the power of transfer. The first question was what was the correct principle of valuation. One had, according to the section, to adopt the principle of the "open market," but there was great difficulty in making a notional application of that principle to shares which could not be sold in the open market. The matter of principle was really concluded by the decision of the Irish Court of Appeal in *Attorney-General* v. *Jameson* (1905), 2 I.R. 218, which was followed and approved by Lord Fleming in Scotland in *Salvesen* v. *Inland Revenue Commissioners* (1930), Scots L.T. 387. He (Mr. Justice Finlay) proposed to express no opinion of his own on the question of principle, but to follow *Jameson's Case*. He proceeded to the task, not an easy one, of applying to the present case the principle in *Jameson's Case*. It appeared that a trust company was likely to be the highest bidder for shares of that sort, and the question arose whether a trust company ought to be included in the consideration. He was, with some hesitation, satisfied that "open market" did not mean that every one in the world must be considered a possible purchaser. He thought that a trust company could not, in a business sense, have been in the market, and should be excluded. But he would fix a price on each basis as a matter of convenience in case a higher court took a different view. He fixed the following prices, excluding a trust company as a possible purchaser: Crossman, £355; Paulin, £351 per share. If a trust company ought to be included: Crossman, £395; Paulin, £391. If the petitioners' contention was right: £221 4s. 5d. and £209 13s. 8d. respectively. Appeal allowed, without costs.

COUNSEL: *W. A. Greene*, K.C., and *D. Ll. Jenkins*, for the petitioners; *The Attorney-General* (Sir Thomas Inskip, K.C.), *The Solicitor-General* (Sir Donald Somervell, K.C.), and *J. H. Stamp*, for the Crown.

SOLICITORS: *Crossman, Block & Co.; Solicitor of Inland Revenue.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

London Jewellers, Ltd. *v.* Sutton.
Same *v.* Robertsons (London), Ltd.

Swift, J. 19th January, 1934.

PAWNBROKER—GOODS STOLEN BY TRICK PLEDGED—CLAIM FOR RETURN BY OWNER—CONVERSION—MERCANTILE AGENT—IN POSSESSION OF GOODS WITH CONSENT OF OWNER—NOT PLEDGED IN ORDINARY COURSE OF BUSINESS —SALE OF GOODS ACT, 1893 (56 & 57 Vict. c. 71), s. 18, r. 4; s. 25 (2)—FACTORS ACT, 1889 (52 & 53 Vict. c. 45), s. 2 (1).

In these two consolidated actions, the plaintiffs, London Jewellers, Ltd., claimed from two pawnbrokers, Thomas Miller Sutton and Robertsons (London), Ltd., the return of various

articles of jewellery or their value. Alternatively, they claimed damages for alleged wrongful conversion. It was stated that a man named Lewis Waller, who was later sentenced at Bow Street Police Court to twelve months' imprisonment, obtained the goods from the London Jewellers, Ltd., saying that he could sell them to actresses. The articles were in fact pawned with the defendants by women to whom Waller had handed the articles. The defendants denied that the goods were the property of the plaintiffs. They contended that they were delivered to Waller on approval, or, alternatively, on sale or return, and that Waller or his agents pledged the jewellery. The defendants further pleaded that the money given on the pledges was still owing. They said that they received the articles in good faith and without notice of any lien of the plaintiffs

SWIFT, J., said that he found as a fact that Waller fraudulently obtained possession of the property of the plaintiffs with the criminal purpose of converting it to his own use. It was admitted that in taking the articles in pledge the pawnbrokers acted in good faith. In answer to the claim, the defendants relied on four main grounds. First, that an action of detinue would not lie as there had been no demand for delivery up of the goods before action brought. That point, he thought, failed. While he did not think that it was essential to prove a demand, he was quite satisfied that there was a sufficient demand and refusal in this case before action brought. If he were wrong in that, and there was no evidence on which he could find such a fact, then he held that no demand was necessary to prove conversion, and the defendants, unless they could justify their action, had converted the jewellery against the right of the plaintiffs. The second and third points were based on r. 4 of s. 18 of the Sale of Goods Act, 1893, and on s. 25 (2) of that Act. If Waller were indeed a buyer that rule and sub-section might have availed the defendants, but it was contended, and he found as a fact, that Waller was not a buyer. Waller's object from beginning to end was to acquire the plaintiffs' property by any means other than that of purchase. The defendants' last point was based on s. 2 (1) of the Factors Act, 1889, and it was contended that: (*a*) Waller was a mercantile agent; (*b*) with the consent of the owner in possession of the goods; and (*c*) that the pledge of the goods was made by him when acting in the ordinary course of business of a mercantile agent, and that therefore the pledge was valid as though he had been expressly authorised by the owner of the goods to make the same. In his (his lordship's) opinion Waller was not a mercantile agent. If Waller was a mercantile agent, however, he (his lordship) held himself bound by the decision in *Folkes* v. *King* [1923] 1 K.B. 282; 67 Sol. J. 227, to hold that he was in possession of the goods with the consent of the owner so as to bring the pledging of them within s. 2 (1) of the Factors Act, 1889. But even supposing that Waller were a mercantile agent in possession of the goods with the consent of the owner, s. 2 (1) of the Factors Act did not protect the defendants unless it appeared that the pledging of the goods was made by him when acting in the ordinary course of business of a mercantile agent. On the evidence he (his lordship) found as a fact that it was not so made. Judgment for the plaintiffs for the return of the articles, with costs. A stay of execution was granted.

COUNSEL: *H. I. P. Hallett*, for the plaintiffs; *A. Safford*, for the defendants.

SOLICITORS: *White & Co.; Attenboroughs.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Royal Warrant Holders' Association *v.* Lipman.

Our attention has been drawn to the fact that from our report of this case which appeared in last week's issue at p. 64 some neglect or omission may be implied on the part of those acting for the Association. We are informed that, subsequently, upon an affidavit of service being filed, the order was drawn up in the terms indicated in our report.

Probate, Divorce and Admiralty Division.

In the Estate of Humphries (deceased).

Bateson, J. 27th November, 1933.

PROBATE—PRINCIPAL ADMINISTRATION ABROAD—ENGLISH ESTATE—APPLICANT ADMINISTRATRIX ABROAD—APPLICANT ALSO NEXT-OF-KIN BY ENGLISH LAW—POWER OF ATTORNEY—GRANT TO ENGLISH ESTATE TO ATTORNEYS OF ADMINISTRATRIX AS SUCH.

This was a motion for a grant of letters of administration to the attorneys of Edith Humphries Saxe, in respect of estate in England of the value of about £440, being a reversionary interest vested in Esther Ellen Humphries, who died at Chicago on 21st November, 1920, intestate, domiciled in the State of Illinois, U.S.A. On 10th June, 1932, the reversion fell in. On 3rd May, 1933, letters of administration were granted by the court in Illinois to Edith Humphries Saxe. There were assets in that State belonging to the estate of Esther Ellen Humphries, who, according to the power of attorney, executed by Edith Humphries Saxe executed for the purpose of the English grant, died a widow, leaving four children, of whom Edith Humphries Saxe was one. The registrar refused to make the grant on the ground that the applicant purported to be a lawful daughter of the deceased, and the practice of the registry required that her attorneys should take the grant on her behalf in her character of next-of-kin by English law, and not as administratrix according to the law of the domicil as prayed. On behalf of the applicant it was submitted that in *In the Goods of Earl* (1867), L.R. 1, P. & D. 450, Lord Penzance had laid down the guiding principle that in all cases where the deceased died domiciled abroad the court should make the grant to the person clothed by the court of the domicil with the power and duty of administering the estate no matter who he might be, or on what ground he had been clothed with that power.

BATESON, J., made the grant as prayed.

COUNSEL: *Clifford Mortimer*, for the applicant.

SOLICITORS: *Patersons, Snow & Co.*, for *Wilson, Wright, Earle & Co.*, Manchester.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

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Obituary.

SIR GERALD HOHLER, K.C.

Sir Gerald Fitzroy Hohler, K.C., died on Tuesday, 30th January, at the age of seventy-two. Educated at Eton and Trinity College, Cambridge, he was called to the Bar by the Inner Temple in 1888, and joined the South-Eastern Circuit. He took silk in 1906, and was elected a Bencher of his Inn in 1915. He was Conservative M.P. for Chatham from 1910 to 1918, and for the Gillingham Division of Rochester from 1918 to 1929. He received the honour of knighthood in 1924, and in 1929 he qualified as a magistrate for Kent.

MR. G. W. FALKNER.

Mr. George William Falkner, Barrister-at-Law, of Lincoln's Inn-Fields, died at Weybridge on Wednesday, 24th January.

Mr. Falkner, who was called to the Bar by Lincoln's Inn in 1903, was Legal Assistant to H.M. Land Registry.

MR. J. H. BRADBURY.

Mr. John Henry Bradbury, solicitor, head of the firm of Messrs. J. & J. H. Bradbury, of Uppermill and Ashton-under-Lyne, died on Wednesday, 17th January, in his sixty-eighth year. Mr. Bradbury was educated at Manchester Grammar School, and was admitted a solicitor in 1888. He served for two years on Saddleworth Council, and was Chairman on four occasions.

MR. H. BUTCHER.

Mr. Hugh Butcher, solicitor, of Blackpool, died on Wednesday, 17th January, at the age of sixty-one. He served his articles with Mr. W. J. Read, of Blackpool, and was admitted a solicitor in 1897. He began to practise on his own account at Morecambe, but later returned to Blackpool.

MR. W. F. FOSTER.

Mr. William Frederick Foster, solicitor, head of the firm of Messrs. W. F. Foster & Hedge, of Raymond-buildings, Gray's Inn, died on Tuesday, 30th January, in his seventy-seventh year. Mr. Foster was admitted a solicitor in 1878.

MR. C. S. HADAWAY.

Mr. Charles Stanley Hadaway, solicitor, of North Shields, died at his home at Monkseaton on Saturday, 27th January, at the age of fifty-six. He served his articles with the late Mr. Horatio Adamson, then Town Clerk of Tynemouth, and was admitted a solicitor in 1900, when he began to practise in North Shields. A year ago he entered into partnership with his brother, Mr. Victor Hadaway.

MR. F. R. W. HAYWARD.

Mr. Frederick Richard William Hayward, solicitor, head of the firm of Messrs. Hayward & Co., of Wolverhampton, died at his home at Codsall on Saturday, 13th January, in his sixty-second year. Mr. Hayward was admitted a solicitor in 1895.

MR. T. HEALEY.

Mr. Thomas Healey, solicitor, a partner in the firm of Messrs. F. G. & H. E. Smith, of Bradford, died on Friday, 26th January, at the age of fifty-eight. Mr. Healey served his articles with Messrs. Robinson, Scott & Holmes, of Bradford, and was admitted a solicitor in 1898. He went into partnership with the late Mr. John Ellis, and practised in Lincolnshire for a time, but later returned to Bradford to join the firm in which he was a partner up to his death.

MR. H. W. HUGHES.

Mr. Harry William Hughes, solicitor, Clerk to the Justices for Shrewsbury and for the Pontesbury Division of Shropshire, died in a London nursing home on Thursday, 11th January. Mr. Hughes, who was admitted a solicitor in 1886, was head of the firm of Messrs. Harry W. Hughes & Son, of Shrewsbury.

MR. R. P. LLOYD.

Mr. Richard Page Lloyd, solicitor, of Preston, died on Saturday, 27th January, at the age of forty-eight. He was admitted a solicitor in 1908.

MR. A. W. MILLS.

Mr. Arthur Walter Mills, M.V.O., Solicitor and Coroner of the King's Household, died on Monday, 29th January, in his eightieth year. Mr. Mills, who was admitted a solicitor in 1877, practised at Lincoln's Inn Fields as Messrs. Mills and Morley. He had held the office of Coroner of the Royal Palaces since 1888.

MR. F. SYKES.

Mr. Frank Sykes, solicitor, senior partner in the firm of Messrs. Ramsden, Sykes & Ramsden, of Huddersfield, died on Thursday, 25th January, at the age of seventy-four. Mr. Sykes, who was admitted a solicitor in 1882, had been connected with his firm for more than fifty years. He was a former President of the Huddersfield Incorporated Law Society, and a former President and Secretary of the Huddersfield Club.

MR. C. E. WARREN.

Mr. Charles Edgar Warren, solicitor, senior partner in the firm of Messrs. Ford & Warren, of Leeds, died on Wednesday, 24th January, at the age of sixty. Mr. Warren was educated at Shrewsbury School, and served his articles with his father. He was admitted a solicitor in 1901, and joined the firm of Messrs. Ford & Warren. He was President of the Leeds Conservative Association.

Parliamentary News.

Progress of Bills.

House of Lords.

Judiciary (Safeguarding) Bill.
Read First Time. [29th January.

Supply of Water in Bulk Bill.
Read First Time. [29th January.

House of Commons.

Adoption of Children (Workmen's Compensation) Bill.
Read Second Time. [31st January.

Aire and Calder Navigation Bill.
Read First Time. [31st January.

Brighton, Hove and Worthing Gas Bill.
Read First Time. [31st January.

Cardiff Corporation Bill.
Read First Time. [31st January.

Chailey Rural District Council Bill.
Read First Time. [31st January.

Church House (Westminster) Bill.
Read First Time. [31st January.

Corby (Northants) and District Water Bill.
Read First Time. [31st January.

Darlington Corporation Bill.
Read First Time. [31st January.

East Worcestershire Water Bill.
Read First Time. [31st January.

London County Council (General Powers) Bill.
Read First Time. [31st January.

London Midland and Scottish Railway Bill.
Read First Time. [31st January.

London Passenger Transport Board Bill.
Read First Time. [31st January.

Maidstone Waterworks Bill.
Read First Time. [31st January.

Manchester Corporation (General Powers) Bill.
Read First Time. [31st January.

Manchester Extension Bill.
Read First Time. [31st January.

Ministry of Health Provisional Order (Belper) Bill.
Read Third Time. [29th January.

Ministry of Health Provisional Order (Crosby Litherland and Waterloo Joint Cemetery District) Bill.
Read Second Time. [31st January.

Ministry of Health Provisional Order (North Buckinghamshire Joint Hospital District) Bill.
Read Third Time. [29th January.

Ministry of Health Provisional Order (Rochester, Chatham, and Gillingham Joint Sewerage District) Bill.
Read First Time. [30th January.

Ministry of Health Provisional Order (Wirral Joint Hospital District) Bill.
Read Second Time. [31st January.

Southern Railway Bill.
Read First Time. [31st January.

South Metropolitan Gas (No. 1) Bill.
Read First Time. [31st January.

South Metropolitan Gas (No. 2) Bill.
Read First Time. [31st January.

South West Suburban Water Bill.
Read First Time. [31st January.

Stockport Corporation Bill.
Read First Time. [31st January.

Stockport Extension Bill.
Read First Time. [31st January.
Taunton Corporation Bill.
Read First Time. [31st January.
Unemployment Bill.
In Committee. [30th January.
Walthamstow Corporation Bill.
Read First Time. [31st January.
Weston-super-Mare Urban District Council Bill.
Read First Time. [31st January.

Questions to Ministers.

SOLICITORS ACT (RULES).

Sir NICHOLAS GRATTAN-DOYLE asked the Attorney-General whether the rules required by s. 1 of the Solicitors Act, 1933, have yet been received for approval from The Law Society; and, if so, the date upon which approval will be given, so as to make the rules operative for the protection of the public without further delay?

The ATTORNEY-GENERAL (Sir Thomas Inskip): I am informed that rules under s. 1 of the Solicitors Act, 1933, have been made by the Council of The Law Society, and are now being further considered with a view to their submission to the Master of the Rolls for his approval during February. [31st January.

BUSINESS OF COURTS COMMITTEE.

Mr. TOUCHE asked the Attorney-General what action it is proposed to take with regard to the recommendations of the Committee on Legal Reform?

The ATTORNEY-GENERAL (Sir Thomas Inskip): The recommendations made in the second interim report of the Business of Courts Committee to which I presume my hon. Friend refers, were received shortly before Christmas, and are at present receiving the careful consideration of my Noble Friend the Lord Chancellor. I am not at present able to make any further statement.

Mr. HOLFORD KNIGHT: Will the right hon. and learned Gentleman consider the advisability of inviting the observations of the Bar Council and the Committee of The Law Society on this matter?

The ATTORNEY-GENERAL: I understand that both these bodies are about to consider the proposals. [29th January.

The Law Society.

SPECIAL GENERAL MEETING.

The Law Society held a Special General Meeting at Bell Yard on the 26th January, with the President, Sir Reginald Poole, in the chair.

THE PRESIDENT, in his address to the meeting, deplored the loss during the last few weeks of no less than three members of the Council. Sir Robert Dibdin had, he said, been a veteran, but the passage of years had made little difference to the wisdom of his counsel; his colleagues had relied on his judgment and his advice had been sound in almost every case in which they had asked it. Sir Robert Mills Welsford had been for years the Chairman of the Legal Education Committee, in which office he had performed excellent work. He also had been a man of few words, but when he had spoken it had been to the point. The death of Mr. W. M. Woodhouse, on the previous Sunday morning, was a more immediate tragedy. The President had, he said, attended Mr. Woodhouse's funeral only a day or two ago, and it was natural to feel such a recent loss more poignantly than one of longer standing. Mr. Woodhouse had been on the Professional Purposes Committee for years, and his advice and help had invariably been useful and wise.

The Council had, he said, to mourn yet another death. Whatever might be the opinion of members on the Solicitors' Bill, they all owed a debt of gratitude to the late Mr. Roy Bird, a member of their profession and the House of Commons, for the courteous and tactful way in which he had successfully piloted the Bill through the House.

Sir Kingsley Wood had become a member of His Majesty's Cabinet. So often had this dignity been conferred on a solicitor that it was almost permissible to regard the solicitors' profession as a stepping-stone to Cabinet office. Sir Kingsley Wood held a practising certificate; the value of his work at the Post Office was disputed by no one, and the Society welcomed the compliment which had been paid to him by the Prime Minister. Sir Thomas Barnes had been appointed Solicitor to the Treasury. The appointment had not been given to a solicitor since the year 1797, and the President said that he was glad that the authorities had at long last recognised that the holder of this office should be a solicitor.

BUSINESS OF COURTS COMMITTEE.

In his address at Oxford, said Sir Reginald, he had ventured to suggest that the jurisdiction of county court registrars might be extended to the sum of £20. He had expressed the opinion that the number of appeals would be limited, and had recommended the abolition of the Divisional Court. He had then had no notion that these reforms were contemplated by any official body; they had been entirely his own idea and he had given them to the annual meeting for what they were worth. The report of the Business of the Courts Committee was now published, and he did not wish to shirk the responsibility of offering the Society his personal opinion upon some of its recommendations. The Committee recommended that the Court of Appeal should be entirely reconstituted and that in the future appeals should be heard by judges of the same rank as the judge who heard the case at *nisi prius*. He had always held the view that the Court of Appeal was composed of a body of judges who held that office because their merit, wisdom and knowledge had caused them to be singled out for promotion. Moreover, the office entailed a certain amount of leisure, for members of the Court of Appeal did not go on circuit. He lamented the possibility of a change. If certain judges were singled out from the body of judges who sat at *nisi prius*, the plan would amount to an official recognition that some of the puisne judges were superior in wisdom and intelligence to their brethren. It would follow that those who were not appointed must be, in the opinion of the authorities, inferior to those who were. That was the possible mischief of the proposed reform.

The Committee had further recommended that the Probate, Divorce and Admiralty Division should be abolished. The Court of Admiralty was an international court, and he doubted whether any of the recommendations of the Committee had excited so much comment, and in some quarters such a strong sense of disapproval, as the suggestion that it should be transferred to a commercial judge. Members of the solicitors' profession who practised in the Court of Admiralty and could speak with authority had informed him that in their own view the proposal was an unfortunate one. He did not personally disapprove of the business of the Probate Court going to the Chancery Division, for he believed that the Chancery judges, with their high standard of legal attainment, would deal with it adequately and well. On the other hand, as far as the proposal concerned the Divorce Court, of which he had some experience, he was against it. One of the most important things in the practice of divorce was the growing exercise of discretion in favour of a guilty petitioner. If this discretion, instead of being entrusted to a small number of judges who were constantly in contact with one another, were transferred to a body of fifteen or—as it would be if the Court of Appeal were abolished—twenty judges, it would run wild; the President could not see that the change would be of value to the community.

AUDIENCE BEFORE QUARTER SESSIONS.

Under the Summary Jurisdiction Appeals Act, 1933, the old obligation to find a substantial sum by way of recognisance before a litigant was allowed to appeal had been altered and the amount had been reduced to £5. The change would, he expected, largely add to the number of appeals. To a considerable extent solicitors appeared as advocates at Petty Sessions, and the feeling of the Society had been that in view of the possibility of appeals being made against comparatively trivial sentences it should not be necessary in every case to instruct counsel, but it should be possible for solicitors to appear on these appeals, at all events in smaller cases. For this reason, as the Attorney-General had mentioned in his speech at the annual meeting of the Bar, the Council had addressed a letter to the Clerks of the Peace pointing out that the appearance of solicitors would make for convenience, expedition and economy. The Attorney-General was reported to have regarded the letter as an *ex parte* statement. The President agreed that it was an *ex parte* statement and also that the question was one of what was best in the public interest. Nevertheless, it seemed to the Council that it was justified in claiming that the possibility of solicitors appearing at these appeals would be calculated to make for convenience, expedition and economy. It rested with courts of Quarter Sessions to say whether they might or might not appear.

THE SOLICITORS' RULES.

At the general meeting held last July Dr. C. E. Barry (who was now, unfortunately, absent through ill-health), had told the Society that the draft rules under s. 1 of the Solicitors' Act, a copy of which had been sent to every member, might be criticised and that the Council would consider the criticisms

and give effect to such of them as in its judgment necessitated the variation of the draft. As had been anticipated, many suggestions had been received from the provincial law societies and from individual solicitors, and each one had been tabulated. The greatest possible consideration had been given to all of them, and many had been included in the rules. The Council had no wish to shirk its responsibility: it was for the Council to settle these rules and it had settled them, subject to the approval of the Master of the Rolls. Members of the Council had their own businesses to consider, and it was unthinkable that they should promote the establishment of rules which militated against the interests of the profession to which they belonged. They had simply considered every suggestion which had been sent to them and had adopted a great many. It was proposed, he said, to publish the rules in the February number of The Law Society's "Gazette," and then postpone sending them to the Master of the Rolls for fourteen days, an interval during which comments could still be made and any situation which was considered dangerous could be saved. The Council had done all that it could, but if there still appeared to any member of the Society some step that could be taken with advantage or which was still necessary, it was open to him to point it out. The responsibility for these rules was the Council's, and the blame, if any, would be attached to it and to the President. The Society trusted the Council, and it had done its best for all members.

NEW GROUNDS FOR DIVORCE.

Mr. E. A. BELL had given notice of his intention to move the following motion: "That incurable insanity is a justifiable ground for divorce."

Mr. HARRINGTON EDWARDS, on a point of order, said that the Society had a charter which stated that its objects were to promote professional improvement and facilitate the acquisition of legal knowledge. He submitted that Mr. Bell's proposal did not come within the ambit of the charter; that the meeting was not free to discuss whatever it liked, and would be unwise to depart from the terms of the charter and debate subjects with a political and a religious aspect. If at the instigation of any twenty members a special meeting of more or less busy people could be called to consider any conceivable topic, such as whether marriage and divorce were civil matters, or the merits of communism, the Society would be acting outside its charter. He was fortified by the opinion of two eminent counsel in his belief that to debate such subjects would be absolutely *ultra vires*. If such a course were generally pursued, persons with contrary religious views would cease to belong to the Society. They could not continue to be members when matters on which they felt most deeply were treated as subjects for debate on the lines of a junior debating society.

The PRESIDENT declared, however, that he was not prepared to rule Mr. Bell's motion out of order. During his experience of meetings of the Society he had heard all sorts of speeches on all sorts of topics, which might have been *ultra vires* of the charter or might not. Nevertheless, he appealed to Mr. Bell to be brief, and to exercise restraint in order to avoid injury to the susceptibilities of members on such a highly controversial matter.

Mr. BARRY O'BRIEN declared that he could not see the practical value of the discussion. Even if Mr. Bell were able to convince the meeting and carry his resolution, the meeting would have expressed an opinion on a purely academic question which would have been more fittingly discussed by the Law Students' Debating Society. Mr. Bell did not suggest that a favourable vote would be followed by any effective legislation.

Mr. BELL thereupon moved his motion, he was not brief, supporting it by arguments and statistics.

Mr. G. H. GRIFFITHS seconded.

Mr. JOSEPH COCKSHUTT, with Mr. Harrington Edwards as seconder, then moved that the meeting pass to the next business, and the motion was carried by a narrow majority.

JUDICIAL CRITICISM OF SOLICITORS' CLERKS.

Mr. BARRY O'BRIEN recalled that about eighteen months previously he had made a protest against certain words which had been uttered by Mr. Justice Swift concerning the solicitors' profession. He now observed that the same judge had returned to the attack, though on this occasion he appeared to have directed his observations not against solicitors—who, after all, could defend themselves to some extent—but against the poor, unfortunate solicitors' clerks. The learned judge was reported in the *Daily Telegraph*, of 13th January last, as having said: "One of the chief accomplishments of solicitors' clerks is to muddle correspondence by not paging it properly." This stricture was as unfounded in fact as it was extravagant in expression. The average solicitor's clerk was a competent fellow who did his work conscientiously and with great industry, and no one was more cognisant of that fact than members of the Bar. Mr. Justice Swift, however, appeared to have forgotten his days at the Bar. It was unfortunate that judges should take advantage of the high position which they held to make personal attacks, which were reported in newspapers, against members of the community who were not in a position to stand up to them and protect themselves.

Mr. BELL suggested that Mr. O'Brien had a bee in his bonnet which had been buzzing for the last eighteen months. Was the *ex parte* interjection of a learned judge, who possibly had good cause to complain, a matter for the Society to consider? Correspondence was sometimes placed in a most irritating order, generally by the young Nerissa who was gradually creeping into the solicitor's office. If such a disaster had actually happened to the correspondence, it was an isolated incident and a trivial matter unworthy of the Society's consideration.

Mr. C. L. NORDON said that the President and the Council spared no effort to raise the profession to as high a position as possible in the estimation of the public. In the *Daily Telegraph* of the 17th January, there appeared a paragraph headed "Judge and Solicitors—no wonder popular view not high." The case before the learned judge was one concerning delay in rendering accounts, and his lordship had used the following words: "Is it to be wondered at that in these circumstances the popular view of the legal profession does not stand very high?" It was of the essence of the stability of this country that respect for the law, its administration and its officers should stand as high as possible and that people should not be frightened to resort to law and to the officers of the law. When learned judges had given utterance to such generic observations, not directed against the particular culprit who was before them—probably very rightly—but used as a means of branding the whole profession, a serious state of affairs arose. He hoped that, with the sturdy independence that the President had shown, the Council would think fit to protest in the proper quarters against such a general stricture on the whole profession, which stultified the efforts which the Council was making to uphold the dignity and honour of solicitors.

THE PRESIDENT replied that as president he regarded with jealousy any imputation on any single member of his profession however humble, and that if he were assured that that imputation had been made and the evidence were well founded, he would not let the matter rest. It had always been to him a matter of congratulation and of delight to have in his service a body of men so loyal as were lawyers' clerks. Members must never fail to recognise that their clerks were the joints in the machine, which helped to create the output. They were often not well paid, but incidents of disloyalty were practically non-existent. They were entrusted with secrets of great moment, they had the confidence of their principals, and often they were the machine which ran the business. No complaint, no disloyalty, nothing in the way of taint or want of affection to their principals was ever heard against them; the honour of the flag was something which meant much to them. He would resent far more an imputation upon a clerk, who was so much less capable of defending himself, than upon a solicitor, who belonged to a body whose business it was to protect its members.

Societies.

University of London Law Society.

Mr. Justice du Parcq presided on Tuesday night at a moot held by the University of London Law Society at Gower Street.

Counsel for plaintiffs were Messrs. Stranders and Jacob, and for the defendants Messrs. Hales and Sarch.

At the end of the legal argument his lordship congratulated counsel on the able manner in which they had put their respective cases, and not missed any points.

The President (Mr. A. Goodman) suitably thanked Mr. Justice du Parcq for his kindness in being present.

The Hardwicke Society.

An ordinary meeting of the society was held in the Middle Temple Common Room, on Friday, 26th January. The president, Mr. L. Ungoed Thomas took the chair at 8.20 p.m. In public business Mr. Constantine Gallop (ex-president) moved: "This House approves the International Legal Commission of Inquiry into the Reichstag fire." Mr. T. K. Wigan opposed. There spoke to the motion: Mr. Menzies, Miss Willis, Mr. See, Mr. Dhavan, Mr. Mayers (hon. secretary),

Mr. Parker, Mr. Sexton, Mr. Sweeney, Mr. Banerji, Mr. Stogdon, Mr. Stride (hon. treasurer), the President and the hon. proposer in reply. On a division the motion was won by three votes.

United Law Society.

A meeting of the United Law Society was held on 29th January, in Middle Temple Common Room. Mr. H. G. Barrow proposed: "That this House disapproves of co-education for boys and girls." Mr. A. McD. Gordon opposed. Messrs. Ribon, Ball, Hill, Everett and Miss Colwill spoke and Mr. Barrow replied. The motion was lost.

Bar Council Election, 1934.

LIST OF CANDIDATES NOMINATED.

The following thirty-two candidates have been nominated to fill the twenty-four vacancies upon the Council.

The election will take place during the week ending Saturday, 17th February.

Voting papers will be sent on or about 9th February to all barristers who have an address in the 1933 "Law List."

A barrister who has not an address in the 1933 "Law List" may obtain a voting paper upon his personal or written application to the Secretary of the Council, 5, Stone-buildings, Lincoln's Inn, W.C.2.

Mr. R. E. L. Vaughan Williams, K.C., Mr. J. M. Gover, K.C., Mr. J. F. W. Galbraith, K.C., M.P., Sir Walter Greaves-Lord, K.C., M.P., Mr. F. K. Archer, K.C., Mr. Charles Doughty, K.C., Mr. W. P. Spens, K.C., M.P., Mr. Noel B. Goldie, K.C., M.P., Mr. J. F. Eales, K.C., M.P., Mr. Arthur Morley, K.C., Mr. F. J. Tucker, K.C., Mr. C. Paley Scott, K.C., Mr. Wilfrid M. Hunt, Mr. C. N. Tindale Davis, Mr. C. W. Turner, Mr. J. H. Stamp, Mr. Horace Douglas, Mr. W. D. Mathias, Mr. Robert E. Gething, Mr. George F. Kingham, Mr. Albert Crew, Mr. J. L. Pratt, Mr. A. W. Cockburn, Mr. R. T. Monier-Williams, Mr. H. H. Maddocks, Mr. G. Granville Sharp, Mr. W. A. Macfarlane, Mr. W. K. Carter, Mr. J. Reginald Jones, Mr. Eric Cuddon, Mr. Douglas C. L. Potter and Mr. G. R. Upjohn.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 30th January (Chairman Mr. B. W. Main), the subject for debate was: "That the case of *In re Caus, Lindeboom* v. *Camille*, 50 T.L.R. 80, was wrongly decided." Mr. P. W. Iliff opened in the affirmative, Mr. J. A. Brightman opened in the negative; Mr. F. G. Timmins seconded in the affirmative, Mr. S. Samson seconded in the negative. The following also spoke: Messrs. R. S. W. Pollard, G. M. Parbury, F. White, W. M. Pleadwell, J. R. Campbell Carter, R. Vibert, A. R. Hadden. The opener having replied, and the Chairman having summed up, the motion was lost by one vote.

Inns of Court.

CALLS TO THE BAR.

Friday, 26th January, was Call Night at the Inns of Court. The following were called:—

LINCOLN'S INN.

Prokash Chandra Sen, B.Sc. (Calcutta); F. R. Moraes, B.A. (St. Catherine's, Oxford, and of Bombay University); Reshad Shahid Hosain Kidwai, B.A. (Christ's, Cambridge); Mahindra Lall Mitra, B.A. (St. Catherine's, Oxford); Sunil Chandra Talukdar, B.A. (London and Calcutta Universities); E. V. E. White, B.A. (Pembroke, Oxford); A. H.-W. L. Chun, B.A. (Sydney University); E. G. Langford, B.A. (Pembroke, Oxford) (Buchanan Prize, Lincoln's Inn, Hilary, 1934); Dakshina Ranjan Mitter, M.A. (Edin.), B.Sc. (Dacca University); P. H. Dean, B.A. (Gonville and Caius College, Cambridge) (Buchanan Prize, Lincoln's Inn, Hilary, 1932; Cholmeley Studentship, Lincoln's Inn, Barstow Scholarship, Hilary, 1934); B. C. Clarke; G. H. Newsom, B.A. (Merton, Oxford) (2nd Class Lit. Hons. 1931, 1st Class Jurisprudence, 1932, Cholmeley Studentship, Lincoln's Inn); Bharatrai Balkrishna Joshi (Fitzwilliam House, Cambridge); G. H. Carruthers, M.Sc., LL.M. (London); J. E. Hodge, B.A. (Hons.) (C.C.C. Cambridge); Prabhat Nath Sen, B.A. (Calcutta); Maung Aung Cheint, LL.B. (Leeds).

Mrs. Gladys L. J. Moore (admitted as G. L. J. Gregory), B.A. (Hons.), LL.B. London.

F. E. Degazon (University College, London) (Buchanan Prize, Lincoln's Inn, 1933).

J. Cumming, B.A. (Trinity Hall, Cambridge).

INNER TEMPLE.

Mr. H. K. Sadler, D.S.O., M.C., M.A. (Christ Church, Oxford) Mr. J. H. Newsham-Taylor, M.A. (Hertford, Oxford); Mr. W. H. D. Barnard, B.A. (Sidney Sussex, Cambridge); Miss G. M. S. Simey, B.A. (St. Hugh's, Oxford); Mr. W. J. Miller, O.B.E.; Miss B. H. Alexander, B.A. (St. Hugh's, Oxford) (holder of a Yarborough-Anderson Scholarship, awarded Michaelmas Term, 1933); Mr. K. K. Lim, B.A. (St. John's, Cambridge) (Poland Prizeman, 1930, and holder of a Profumo Prize, Michaelmas Term, 1933); Mr. H. V. Benest, B.A. (Jesus College, Oxford); Mr. T. H. Clarke, B.A. (Trinity, Cambridge); Mr. J. Lal, B.A. (Emmanuel, Cambridge); Mr. J. C. Smuts, B.A., B.C.L. (University College, Oxford); Mr. A. A. Majekodunmi; Mr. J. V. Oosthuizen, B.A., B.C.L. (University College, Oxford); Mr. D. H. B. Thornton, M.A. (Worcester, Oxford); Mr. G. H. C. Bing, B.A. (Lincoln, Oxford); Mr. R. E. N. d'Abo, B.A. (Trinity, Cambridge); Mr. S. M. Ali; Mr. R. Millner, B.A. (Clare, Cambridge); Mr. R. L. Lloyd; Miss E. H. Kirkby-Gomes, B.A., B.C.L. (Oxford); Mr. K. J. T. Elphinstone, B.A. (Jesus College, Cambridge); Mr. J. H. E. Howorth, B.A. (New College, Oxford); Mr. M. A. C. Satchu; Mr. D. A. Dunsford, B.A. (Jesus College, Cambridge); Mr. J. G. Shorrock, B.A. (Hertford, Oxford); Mr. M. F. D. Archibald, LL.B. (Leeds).

MIDDLE TEMPLE.

D. F. Chalmers; F. Fisher, B.A., LL.B. (Clare, Cambridge); W. M. Vaidya, B.Sc. (London and Nagpur Universities); Hon. E. B. C. Howard, B.A. (New College, Oxford); A. R. Wijesingha; H. M. Hyde, M.A. (Magdalen, Oxford), F.R.Hist.S., Harmsworth Law Scholar; Raj Naarain, M.A. (Aligarh University and St. Catherine's, Oxford); R. A. Parikh; M. J. Asghar, B.A. (Christ's, Cambridge); K. W. Harmer; R. K. Brown, B.A. (Trinity Hall, Cambridge), Harmsworth Law Scholar; Chen Gim Toh; H. H. Patel; M. H. Hashim; H. J. Phillimore, B.A. (Christ Church, Oxford), Harmsworth Law Scholar; J. T. Sackeyfio; D. N. Khanna; E. W. Woodhead, M.A. (St. Catherine's Cambridge); M. E. F. Corley, B.A. (Oriel, Oxford), Harmsworth Law Scholar; B. Mancherjee; J. Kerr; G. V. de C. Parmiter, B.A. (Merton, Oxford); A. Epstein, M.R.C.S., L.R.C.P.; R. H. Prendergast, B.A. (Hons.) (Trinity, Cambridge); R. J. Harris, B.A. (Magdalen, Oxford); R. E. G. Mayhew; S. C. Wilson; E. P. Jayasinghe; D. C. W. Smith, B.A. (Christ Church, Oxford), Harmsworth Law Scholar; G. W. S. Bagshawe, B.A. (Christ Church, Oxford); Jamna Prasad Jain, M.A., LL.B. (Allahabad University); C. E. Scholefield; K. H. Bain, LL.B. (London University).

GRAY'S INN.

J. H. C. Morris, B.A., B.C.L. (Christ Church, Oxford), (Holder of a Certificate of Honour, Council of Legal Education, Hilary, 1934, Entrance Scholar, Gray's Inn, 1932, Eldon Law Scholar, 1933); L. H. Shelton, M.A. (St. John's, Cambridge); L. C. Curran; A. Johnson, M.Sc. (Durham); J. P. L. Redfern, B.A. (Balliol, Oxford); Frank Whitworth, B.A. (Trinity Hall, Cambridge) (Lord Justice Holyker Prizeman, Gray's Inn, 1933); L. S. Farquharson, M.B., B.S. (London); T. J. Griffiths, B.Sc. (Econ.) (London); Gladys F. Jones, LL.B. (Manchester); G. W. Playfair, B.A. (Merton, Oxford); Muhammad Abdul Khader, B.A. (Madras); A. W. Bellamy, B.A. (Clare, Cambridge); J. C. Halse, LL.B. and Whittuck Scholar (London); J. I. G. Campbell, LL.B. (Liverpool); R. Dunn, B.A., LL.B. (Trinity College, Dublin); Thoon Lip Tan, B.A. (St. John's, Cambridge); M. Morgan, B.A. (New College, Oxford), M.A. (Johannesburg) (Lee Prizeman, Gray's Inn, 1931); E. B. Gibbens, B.A. (St. Catherine's Society, Oxford); W. E. Evans (Swansea); C. M. Brown, M.D., Ch.B. (Glasgow); F. A. Amies, B.A. (Leeds).

Legal Notes and News.

Honours and Appointments.

It is announced from the Colonial Office that His Majesty The King has been pleased to approve the appointment of Sir JOSEPH ALFRED SHERIDAN, Chief Justice, Tanganyika Territory, to be Chief Justice, Kenya, in succession to Sir Jacob William Barth, C.B.E., who is retiring. Sir Joseph Sheridan was called to the Irish Bar in 1907.

The India Office announces that The King has been pleased to approve the appointment of Mr. CHARLES BARTLEY, Indian Civil Service, barrister-at-law, as a puisne judge of the High Court of Judicature at Calcutta, *vice* Mr. Justice Malik, who will shortly retire.

Mr. GEORGE CECIL LIGHTFOOT, B.A. Oxon, Assistant Solicitor to the East Suffolk County Council, has been appointed

a Senior Assistant Solicitor in the office of the Clerk of the Peace and of the County Council of East Sussex. Mr. Lightfoot was admitted a solicitor in 1930.

Sir ROBERT HORNE, K.C., M.P., has been appointed Chairman of the Great Western Railway to fill the vacancy caused by the death of Lord Churchill.

Mr. R. G. OLIVER, K.C., and Mr. H. L. MURPHY have been elected Masters of the Bench of the Inner Temple.

Mr. T. M. JORDAN, Assistant Solicitor under Hammersmith Borough Council, has been appointed Deputy Town Clerk of Chesterfield. Mr. Jordan was admitted a solicitor in 1929.

Mr. J. HOLT, Assistant Solicitor of the Town Clerk's Office at Todmorden, has been appointed Assistant Solicitor to the Hackney Borough Council. Mr. Holt was admitted a solicitor in 1932.

Mr. J. S. PARKER, solicitor, of Wellingborough, has been appointed Deputy Coroner under his father, Mr. J. C. Parker, who is Coroner for East Northamptonshire. Mr. J. S. Parker was admitted a solicitor in 1929.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS, or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

LEGAL AND GENERAL ASSURANCE SOCIETY LIMITED.

To succeed Mr. H. F. L. Codner, who has resigned following his appointment as an executive officer of the Woolwich Equitable Building Society, the Directors of the Legal and General Assurance Society Limited have appointed Mr. T. Dunn as Manager of the South East London Office as from the 1st February next.

RULES UNDER THE SOLICITORS ACT, 1933.

At the Special General Meeting of The Law Society on Friday, 26th January, the President, Sir Reginald Poole, stated that it was proposed to publish the Rules which had been settled by the Council of The Law Society in the February issue of *The Law Society's Gazette*. There would then be an interval of fourteen days during which comments could still be made before the Rules were sent to the Master of the Rolls.

MIDDLE TEMPLE PRIZES.

The Under Treasurer of the Middle Temple announces that Blackstone Prizes of £105 each (twelve of which are offered annually to students of the Middle Temple by the Masters of the Bench) have been awarded to Mr. F. C. Benn and Mr. A. H. Bray, on the results of the recent Bar Examinations.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.		EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part I.	GROUP I. MR. JUSTICE MAUGHAM. Non-Witness.
		Mr.	Mr.	Mr.	Mr.
Feb.	5	More	Jones	*Ritchie	Andrews
,,	6	Hicks Beach	Ritchie	*Andrews	More
,,	7	Andrews	Blaker	*More	Ritchie
,,	8	Jones	More	*Ritchie	Andrews
,,	9	Ritchie	Hicks Beach	Andrews	More
,,	10	Blaker	Andrews	More	Ritchie
		GROUP I. MR. JUSTICE BENNETT. Witness. Part II.	MR. JUSTICE CLAUSON. Non-Witness.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness. Part I.
		Mr.	Mr.	Mr.	Mr.
Feb.	5	*More	Blaker	Jones	*Hicks Beach
,,	6	Ritchie	Jones	*Hicks Beach	*Blaker
,,	7	*Andrews	Hicks Beach	Blaker	*Jones
,,	8	More	Blaker	*Jones	Hicks Beach
,,	9	*Ritchie	Jones	Hicks Beach	*Blaker
,,	10	Andrews	Hicks Beach	Blaker	Jones

The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 8th February, 1934.

	Div. Months.	Middle Price 31 Jan. 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	109¾	3 12 11	3 7 8
Consols 2½%	JAJO	75¾	3 6 0	—
War Loan 3½% 1952 or after ..	JD	101½	3 9 0	3 7 10
Funding 4% Loan 1960-90	MN	112	3 11 5	3 6 1
Victory 4% Loan Av. life 29 years	MS	110¾	3 12 3	3 8 3
Conversion 5% Loan 1944-64 ..	MN	116¾	4 5 8	2 18 11
Conversion 4½% Loan 1940-44 ..	JJ	109½	4 2 2	2 17 4
Conversion 3½% Loan 1961 or after ..	AO	102⅜	3 8 5	3 7 4
Conversion 3% Loan 1948-53 ..	MS	98xd	3 1 3	3 2 10
Conversion 2½% Loan 1944-49 ..	AO	93	2 13 9	3 1 10
Local Loans 3% Stock 1912 or after ..	JAJO	88¾	3 7 7	—
Bank Stock	AO	347½	3 9 1	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	79½	3 9 2	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	87½	3 8 7	—
India 4½% 1950-55	MN	108	4 3 4	3 16 5
India 3½% 1931 or after	JAJO	88	3 19 7	—
India 3% 1948 or after	JAJO	75½	3 19 6	—
Sudan 4½% 1939-73	FA	111½	4 0 9	2 1 1
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Tanganyika 4% Guaranteed 1951-71	FA	108½	3 13 9	3 6 9
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2 19 5	—
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109½	4 2 2	3 4 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	105	3 16 2	3 13 2
*Australia (Commonw'th) 3⅜% 1948-53	JD	100	3 15 0	3 15 0
Canada 4% 1953-58	MS	108	3 14 1	3 8 10
Natal 3% 1929-49	JJ	96	3 2 6	3 6 10
New South Wales 3½% 1930-50 ..	JJ	97	3 12 2	3 15 0
New Zealand 3% 1945	AO	96	3 2 6	3 8 11
Nigeria 4% 1963	AO	107	3 14 9	3 12 3
Queensland 3½% 1950-70	JJ	96	3 12 11	3 14 1
South Africa 3½% 1953-73	JD	100	3 10 0	3 10 0
Victoria 3½% 1929-49	AO	97	3 12 2	3 15 0
W. Australia 3½% 1935-55	AO	97	3 12 2	3 14 1
CORPORATION STOCKS				
Birmingham 3% 1947 or after ..	JJ	86	3 9 9	—
Croydon 3% 1940-60	AO	95	3 3 2	3 5 9
Essex County 3½% 1952-72	JD	102	3 8 8	3 7 2
*Hull 3½% 1925-55	FA	100	3 10 0	3 10 0
Leeds 3% 1927 or after	JJ	86	3 9 9	—
Liverpool 3½% Redeemable by agreement with holders or by purchase ..	JAJO	100	3 10 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	74	3 7 7	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	88	3 8 2	—
Manchester 3% 1941 or after ..	FA	86	3 9 9	—
Metropolitan Consd. 2½% 1920-49 ..	MJSD	93	2 13 9	3 1 3
Metropolitan Water Board 3% "A" 1963-2003	AO	89½	3 7 0	3 7 10
Do. do. 3% "B" 1934-2003 ..	MS	91	3 5 11	3 6 7
Do. do. 3% "E" 1953-73 ..	JJ	95	3 3 2	3 4 6
Middlesex County Council 4% 1952-72	MN	109	3 13 5	3 7 0
Do. do. 4½% 1950-70 ..	MN	114	3 18 11	3 8 0
Nottingham 3% Irredeemable ..	MN	87	3 9 0	—
Sheffield Corp. 3½% 1968	JJ	100½	3 9 8	3 9 6
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ..	JJ	107	3 14 9	—
Gt. Western Rly. 4½% Debenture ..	JJ	117½	3 16 7	—
Gt. Western Rly. 5% Debenture ..	JJ	128½	3 17 10	—
Gt. Western Rly. 5% Rent Charge ..	FA	124½	4 0 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	124½	4 0 4	—
Gt. Western Rly. 5% Preference ..	MA	113	4 8 6	—
Southern Rly. 4% Debenture ..	JJ	106	3 15 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½	3 15 1	3 12 6
Southern Rly. 5% Guaranteed ..	MA	122½	4 1 8	—
Southern Rly. 5% Preference ..	MA	109	4 11 9	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

LEGACIES.

THE suggestions of the legal adviser have great weight with most testators, and an appeal is made for the claims of ST. DUNSTAN'S to be borne in mind when charitable bequests are under consideration. St. Dunstan's is solely responsible for the training, settlement and lifelong after-care of over two thousand men who have been blinded as the result of their service for King and Country.

All information from: THE SECRETARY,

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INNER CIRCLE, REGENT'S PARK,
LONDON, N.W.1.

(*St. Dunstan's is registered under the Blind Persons Act*, 1920.)
The Eighteenth Annual Report may be had on application.

The Solicitors' Journal.

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LEGACIES

are a valued and much needed help in our great work.

This Hospital which is isolated from the natural sources of charity, has for over 70 years been serving the sick and suffering children of the East End of London, and during that period has treated over 1,400,000 little patients.

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Chairman: BRIG.-GENERAL SIR HILL CHILD, C.B., C.M.G., D.S.O., M.V.O.

ANNUAL REPORT and full particulars of the work gladly supplied by the Secretary, Mr. J. F. RUSSELL. ('Phone: East 5068.)

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Also completely detached villas for mild cases with private suites if desired. Voluntary Patients received. Twenty acres of grounds. Hard and Grass Tennis Courts, Putting Greens, Bowls, Croquet, Squash Racquets, and all indoor amusements, including Wireless and other Concerts. Occupational Therapy, Callisthenics and Dancing Classes, X-ray and Actino-Therapy, Prolonged Immersion Baths, Operating Theatre Pathological Laboratory. Dental Surgery, and Ophthalmic Department. Chapel.

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An Illustrated Prospectus, giving fees, which are strictly moderate, may be obtained upon application to the Secretary.

The Convalescent Branch is Hove Villa, Brighton, and is 200 feet above sea level.

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FOR THE ASSISTANCE OF LADIES IN REDUCED CIRCUMSTANCES.
Under Royal Patronage.

An Urgent Appeal—LEGACIES

"THEIR WORKS DO FOLLOW THEM."

There are many people who, alas, cannot give to this Society during their lifetime, but we shall be glad if they will remember that a Legacy, large or small, will be very useful and gratefully received. The need of help is greater than ever.

NEW ANNUAL SUBSCRIPTIONS WILL BE MOST THANKFULLY RECEIVED.

WILL LAWYERS KINDLY ADVISE THEIR CLIENTS TO HELP THIS SOCIETY.

Please make Cheques payable to—

MISS SMALLWOOD'S SOCIETY, Lancaster House, Malvern.

LAW ASSOCIATION

For the benefit of Widows and Families of Solicitors in the Metropolis and vicinity. Instituted 1817. Supported by Life and Annual Subscriptions and by Donations. This Association consists of Solicitors taking out London Certificates and of retired Solicitors who have practised under London Certificates and its objects are (amongst others): To grant relief to the Widows and Children of any deceased Member, or if none, then to other relatives dependent on him for support. The Relief afforded last year amounted to £2,352. A Subscription of One Guinea per annum constitutes a Member and a payment of Ten Guineas Membership for Life

Applications to be made to the SECRETARY, E. Evelyn Barron, 3, Gray's-inn place, London, W.C.1.

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Clapham Road, Stockwell, S.W.9.

Hon. President: Rev. H. Tydeman Chilvers.
Hon. Treasurer: Robert Percival Higgs, Esq.

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LEGACIES

ARE A VALUED HELP.

THE EARL OF HARROWBY, Treasurer.

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